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CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: The 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

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CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of February 1988 pursuant to RCW 19.52.020 is twelve percent (12%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

The maximum allowable retail installment contract service charge applicable for calendar year 1988 pursuant to RCW 63.14.130(1)(a) is twelve and one-quarter percent (12¼%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is twelve and one-half percent (12½%) for the first calendar quarter of 1988.

WASHINGTON STATE REGISTER

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Raymond W. Haman
Chairman, Statute Law Committee

Kerry S. Radcliff
Editor

Dennis W. Cooper
Code Reviser

Joyce Matzen
Subscription Clerk

Gary Reid
Chief Assistant Code Reviser

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and are set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** have been adopted on an emergency basis and are set forth in ten point oblique type.

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.04.058 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) ~~deleted material is ((lined out and bracketed between double parentheses));~~
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed, but not advanced, and a delayed effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in brackets [].

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1987 – 1988

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
87-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6
87-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27
87-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10
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87-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
87-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
87-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1988
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88-01	Nov 25	Dec 9	Dec 23, 1987	Jan 6, 1988	Jan 26
88-02	Dec 9	Dec 23, 1987	Jan 6, 1988	Jan 20	Feb 9
88-03	Dec 23, 1987	Jan 6, 1988	Jan 20	Feb 3	Feb 23
88-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 8
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88-11	Apr 20	May 4	May 18	Jun 1	Jun 21
88-12	May 4	May 18	Jun 1	Jun 15	Jul 5
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88-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1989

¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the order typing service (OTS) of the code reviser's office; see WAC 1-12-220 or 1-13-240. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³"No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 88-04-001

ADOPTED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 88-3—Filed January 21, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Self-funded plans for employee benefits, chapter 392-130 WAC.

This action is taken pursuant to Notice No. WSR 87-22-024 filed with the code reviser on October 28, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 48.62.030 and 48.62.035 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 20, 1988.

By Frank B. Brouillet
Superintendent of Public Instruction

Chapter 392-130 WAC

FINANCE—SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS

WAC

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- 392-130-010 Purposes.
- 392-130-015 Definition—Joint self-funded plan for employee benefits.
- 392-130-020 Definition—Individual self-funded plan for employee benefits.
- 392-130-025 Definition—Self-funded employee loss of time and health benefit plans.
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- 392-130-060 Definition—Member.
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- 392-130-070 Definition—Employer.
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- 392-130-100 Definition—Health care insurance.
- 392-130-105 Definition—Accident insurance.
- 392-130-110 Definition—Disability insurance.
- 392-130-115 Definition—Salary protection insurance.
- 392-130-120 Definition—Loss of time insurance.

- 392-130-125 Definition—Fiscal year.
- 392-130-130 Definition—Board of directors of a self-funded plan for employee benefits.
- 392-130-135 Definition—Excess loss insurance.
- 392-130-140 Definition—Certificate authorizing an insurer to provide insurance.
- 392-130-145 Joint self-funded plans for employee benefits to be in accordance with the interlocal cooperation act.
- 392-130-150 Adoption of an individual self-funded plan for employee benefits by a sponsoring board of directors.
- 392-130-155 Budgeting and accounting policies for self-funded plans for employee benefits.
- 392-130-160 Records and accounts of a self-funded plan for employee benefits.
- 392-130-165 Management and operational standards for self-funded plans for employee benefits—General provisions.
- 392-130-170 Management and operational standards for self-funded plans for employee benefits—Administrative standards.
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- 392-130-180 Management and operational standards for self-funded plans for employee benefits—Required powers and duties of the sponsoring board of directors.
- 392-130-185 Management and operational standards for self-funded plans for employee benefits—Optional powers and duties of the sponsoring board of directors.
- 392-130-190 Management and operational standards for self-funded plans for employee benefits—Liabilities of a self-funded plan for employee benefits.
- 392-130-195 Management and operational standards for self-funded plans for employee benefits—Plan deposits and investments.
- 392-130-200 Management and operational standards of a self-funded plan for employee benefits—Bonding of administrators.
- 392-130-205 Management and operational standards of a self-funded plan for employee benefits—Prohibited pecuniary interests.

NEW SECTION

WAC 392-130-005 AUTHORITY. The authority for this chapter is RCW 48.62.030 which authorizes the superintendent of public instruction to adopt rules governing the budgeting and accounting for school district and educational service district self-funded plans for employee benefits. This authority is supplemented by

RCW 48.62.035 which authorizes the superintendent of public instruction to establish standards for the operation and management of school district and educational service district self-funded plans for employee benefits.

NEW SECTION

WAC 392-130-010 **PURPOSES.** The purposes of this chapter are to:

(1) Provide policies and procedures regarding the budgeting and accounting for school district and educational service district self-funded plans for employee benefits.

(2) Provide management and operational standards for self-funded plans for employee benefits.

NEW SECTION

WAC 392-130-015 **DEFINITION—JOINT SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS.** As used in this chapter, the term "joint self-funded plan for employee benefits" means the combining of one or more school districts and/or educational service districts with a sponsoring school district or educational service district in order to provide an insurance plan in accordance with these rules and regulations. A "joint self-funded plan for employee benefits" shall be consistent with the term "self-funded plan" as used in chapter 48.62 RCW.

NEW SECTION

WAC 392-130-020 **DEFINITION—INDIVIDUAL SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS.** As used in this chapter, the term "individual self-funded plan for employee benefits" means a plan established by a sponsoring school district or educational service district in order to provide an insurance plan for its own employees only. An "individual self-funded plan for employee benefits" shall be consistent with the term "self-funded plan" as used in chapter 48.62 RCW.

NEW SECTION

WAC 392-130-025 **DEFINITION—SELF-FUNDED EMPLOYEE LOSS OF TIME AND HEALTH BENEFIT PLANS.** As used in this chapter, the term "self-funded employee loss of time and health benefit plans" means those self-funded plans for employee benefits defined in WAC 392-130-015 and 392-130-020.

NEW SECTION

WAC 392-130-030 **DEFINITION—SELF-FUNDED PLAN OR A PLAN.** As used in this chapter, the term "self-funded plan" or a "plan" means individual and joint self-funded plans for employee benefits.

NEW SECTION

WAC 392-130-035 **DEFINITION—SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS.** As

used in this chapter, the term "self-funded plan for employee benefits" means individual and joint self-funded plans for employee benefits.

NEW SECTION

WAC 392-130-040 **DEFINITION—JOINT SELF-FUNDED PLAN.** As used in this chapter, the term "joint self-funded plan" means joint self-funded plans for employee benefits.

NEW SECTION

WAC 392-130-045 **DEFINITION—FUND.** As used in this chapter, the term "fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash and/or other assets together with all related liabilities and equity.

NEW SECTION

WAC 392-130-050 **DEFINITION—ENTERPRISE FUND.** As used in this chapter, the term "enterprise fund" means a fund established to account for the revenues, benefit costs, and net income or loss of a self-funded plan for employee benefits. The accounting information from this fund is used to establish contribution rates and benefit amounts of a plan.

NEW SECTION

WAC 392-130-055 **DEFINITION—BENEFICIARY.** As used in this chapter, the term "beneficiary" means any individual entitled, under a self-funded plan for employee benefits, to payment of part or all of the cost of an insured loss.

NEW SECTION

WAC 392-130-060 **DEFINITION—MEMBER.** As used in this chapter, the term "member" means a school district or educational service district that is a contributor to a joint self-funded plan.

NEW SECTION

WAC 392-130-065 **DEFINITION—CONTRIBUTION.** As used in this chapter, the term "contribution" means the amount paid or payable by the employer or employee into a self-funded plan for employee benefits.

NEW SECTION

WAC 392-130-070 **DEFINITION—EMPLOYER.** As used in this chapter, the term "employer" means a school district or an educational service district.

NEW SECTION

WAC 392-130-075 **DEFINITION—THIRD PARTY ADMINISTRATOR.** As used in this chapter, the term "third party administrator" means a person or firm employed by a board of directors of a self-funded plan for employee benefits in order to administer aspects of a plan.

NEW SECTION

WAC 392-130-080 DEFINITION—CLAIM. As used in this chapter, the term "claim" means a demand for payment for a loss which comes under the terms of a self-funded plan for employee benefits.

NEW SECTION

WAC 392-130-085 DEFINITION—LIFE INSURANCE. As used in this chapter, the term "life insurance" means insurance designed to protect against economic losses resulting from death.

NEW SECTION

WAC 392-130-090 DEFINITION—HEALTH INSURANCE. As used in this chapter, the term "health insurance" means insurance against economic losses due to sickness or bodily injury.

NEW SECTION

WAC 392-130-095 DEFINITION—HEALTH BENEFIT INSURANCE. As used in this chapter, the term "health benefit insurance" means the same as health insurance as defined in WAC 392-130-090.

NEW SECTION

WAC 392-130-100 DEFINITION—HEALTH CARE INSURANCE. As used in this chapter, the term "health care insurance" means a form of health insurance against medical expenses.

NEW SECTION

WAC 392-130-105 DEFINITION—ACCIDENT INSURANCE. As used in this chapter, the term "accident insurance" means a form of health insurance against economic loss by accidental bodily injury.

NEW SECTION

WAC 392-130-110 DEFINITION—DISABILITY INSURANCE. As used in this chapter, the term "disability insurance" means a form of health insurance that provides periodic payments when the insured is unable to work as a result of illness, injury or disease.

NEW SECTION

WAC 392-130-115 DEFINITION—SALARY PROTECTION INSURANCE. As used in this chapter, the term "salary protection insurance" means a form of health insurance that provides for the continuation of an employee's income after his death or disability.

NEW SECTION

WAC 392-130-120 DEFINITION—LOSS OF TIME INSURANCE. As used in this chapter, the term "loss of time insurance" means the same as disability insurance and salary protection insurance as defined in WAC 392-130-110 and 392-130-115.

NEW SECTION

WAC 392-130-125 DEFINITION—FISCAL YEAR. As used in this chapter, the term "fiscal year" of a self-funded plan for employee benefits means the same period of time as the fiscal year of the school district or educational service district sponsoring a plan.

NEW SECTION

WAC 392-130-130 DEFINITION—BOARD OF DIRECTORS OF A SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS. As used in this chapter, the term "board of directors of a self-funded plan for employee benefits" means the board of directors of the school district or educational service district that is sponsoring a plan.

NEW SECTION

WAC 392-130-135 DEFINITION—EXCESS LOSS INSURANCE. As used in this chapter, the term "excess loss insurance" means an insurance contract whereby an entire or part of a risk or contingent liability already covered under an existing contract is transferred to another insurer.

NEW SECTION

WAC 392-130-140 DEFINITION—CERTIFICATE AUTHORIZING AN INSURER TO PROVIDE INSURANCE. As used in this chapter, the term "certificate authorizing an insurer to provide insurance" means the authorization to transact insurance in Washington state as required under RCW 48.05.030.

NEW SECTION

WAC 392-130-145 JOINT SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS TO BE IN ACCORDANCE WITH THE INTERLOCAL COOPERATION ACT. An agreement among school districts and educational service districts to provide a joint self-funded plan for employee benefits shall be made in accordance with the interlocal cooperation act, chapter 39.34 RCW, as well as these rules and regulations. The agreement for a joint self-funded plan shall meet the specific requirements of the provisions of RCW 39.34-.030, as well as the specific requirements of WAC 392-130-165. The agreement shall contain all the provisions of the plan including any contingencies regarding effectiveness such as date, number of school districts participating, and adoption by the sponsoring school district or educational service district. The agreement shall provide that a joint self-funded plan is to be established by a board policy of each participating board of directors. The agreement and the board policy establishing the joint self-funded plan shall be adopted by resolution of each participating board of directors. A copy of the resolution adopting the agreement and a copy of the agreement signed by an authorized official of a participating school district or educational service district shall be forwarded to the sponsoring school district or educational service district.

NEW SECTION

WAC 392-130-150 ADOPTION OF AN INDIVIDUAL SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS BY A SPONSORING BOARD OF DIRECTORS. An individual self-funded plan for employee benefits shall provide that a school district or an educational service district board of directors sponsoring an individual self-funded plan shall establish the individual self-funded plan by board policy. The board policy shall contain all the provisions of the individual self-funded plan. The board policy establishing the individual self-funded plan shall be adopted by board resolution.

NEW SECTION

WAC 392-130-155 BUDGETING AND ACCOUNTING POLICIES FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS. A self-funded plan for employee benefits may provide for the preparation of budgets for the fund used to account for a plan. Provisions shall be made in a plan to require that:

(1) Financial statements, including any budgets, be prepared and the plan be accounted for using the enterprise fund concept in governmental accounting as promulgated by the governmental accounting standards board (GASB). Such financial statements shall be prepared consistent with the standards for an insurance enterprise in the statements of financial accounting standards promulgated by the financial accounting standards board (FASB). In accordance with the requirements of the governmental accounting standards board and the financial accounting standards board, revenues and expenses shall be recognized on the full accrual basis of accounting. Financial information that is developed using the full accrual basis of accounting is appropriate for measuring the adequacy of contributions to an insurance enterprise.

(2) Revenue and expense classifications for the plan parallel those of a private insurance firm providing similar services.

NEW SECTION

WAC 392-130-160 RECORDS AND ACCOUNTS OF A SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS. The following provisions shall be included in a self-funded plan for employee benefits:

(1) The board of directors of a plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs.

(2) Within forty-five days after the close of a fiscal year of a plan, the administrator shall prepare annual financial statements in writing summarizing the financial transactions for such fiscal year and the financial condition at the end of such year in accordance with these rules and regulations and generally accepted accounting principles. Generally accepted accounting principles for the purpose of these rules are the authoritative sources given in WAC 392-130-155.

(3) The board of directors shall arrange for an annual audit of the plan's annual financial statements within ninety days after the close of each fiscal year. If in the

opinion of the board of directors, the state auditor is unable to complete an audit of the financial statements within ninety days after the close of a fiscal year of a plan, the board of directors shall arrange with a certified public accountant to perform the audit of the annual financial statements.

(4) The administrator of a plan shall deliver a copy of the audited financial statements to each member of the sponsoring board of directors of a plan, to each employer participant in a joint self-funded plan, and to each organization that represents employee beneficiaries of a plan in collective bargaining. The audited financial statements shall be delivered within fourteen days after receipt.

NEW SECTION

WAC 392-130-165 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS—GENERAL PROVISIONS. The provisions of an agreement for a joint self-funded plan for employee benefits and the policy establishing an individual self-funded plan for employee benefits shall provide for the following specifications:

- (1) The duration of the plan.
- (2) The board of directors and administrators responsible for managing the plan.
- (3) Any provision for the contingent start-up of the plan.
- (4) The membership of any advisory board.
- (5) The method of acquiring, holding, and disposal of assets consistent with these rules.
- (6) The nature and scope of insurance coverages to be provided including the extent of choice among combinations of coverage.
- (7) The manner of financing the plan.
- (8) The method by which plan contributions or benefits will be adjusted when reserves have been determined to be actuarially excessive or insufficient, when plan liabilities exceed plan assets, and when the plan is unable to meet debts as such debts mature. If plan contributions need to be increased, the increases shall be large enough to make the joint self-funded plan actuarially sound, solvent, and able to settle any claims and charges against the plan.

(9) The method to be employed in accomplishing the partial or complete termination of the plan and for liquidation of the plan's assets upon such partial or complete termination. The method shall provide for the settling of all unliquidated claims against the plan. In addition, the method shall be fair and equitable to all persons having a claim upon the plan.

(a) For a joint self-funded plan the method specified shall provide for a pro rata distribution of any assets to the members remaining after all claims and charges against the joint self-funded plan have been settled. The method specified shall state that the existence of surplus assets for such disposition shall not be determined prior to expiration of two years after the joint self-funded plan has been terminated. Also, for a joint self-funded plan the method specified shall provide for a declaration

and pro rata collection by the board of directors of additional premiums from the members if additional money is needed to settle remaining claims and charges unless the remaining claims and charges have been assumed by other financially responsible person or persons. In addition, for a joint self-funded plan the method specified shall provide for the pro rata collection of additional premiums when the joint self-funded plan is terminated because liabilities exceed assets or because the joint self-funded plan is unable to meet debts as such debts mature.

(b) For an individual self-funded plan the method specified shall provide for the remaining assets to be transferred to the sponsoring school district's general fund or the sponsoring educational service district's general expense fund. The method specified shall state that the existence of surplus assets for such disposition shall not be determined prior to expiration of two years after the individual self-funded plan has been terminated. Also, for an individual self-funded plan the method specified shall provide for a collection of additional premiums from the sponsoring school district's general fund or the sponsoring educational service district's general expense fund if additional money is needed to settle remaining claims and charges unless the remaining claims and charges have been assumed by other financially responsible person or persons. In addition, for an individual self-funded plan the method specified shall provide for the collection of additional premiums from the sponsoring school district's general fund or educational service district's general expense fund when the individual self-funded plan is terminated because liabilities exceed assets or because the individual self-funded plan is unable to meet debts as such debts mature.

(10) The process for the termination of membership of any member of a joint self-funded plan. The termination process may be initiated against a joint self-funded plan member who fails to abide by the requirements of the agreement concerning payment of dues and premiums and any other contributions, installation of safety requirements, accounting and reporting, claims administration, and cooperation with the claims agents or attorneys representing the joint self-funded plan or any of the members. The process of termination may be initiated against a member of a joint self-funded plan who, in the judgment of the board of directors, acts in a manner detrimental to the fiscal soundness or effectiveness of the joint self-funded plan.

(11) The process for the addition of new members in a joint self-funded plan.

(12) The methods by which coverages are to be offered, premiums or assessments levied and paid, claims administered and defended against.

(13) The process for settling disputes among members of a joint self-funded plan. The process shall provide for binding arbitration of all disputes among member districts under the terms and conditions of a joint self-funded plan. In addition, the process shall specify when a dispute among member districts in a joint self-funded plan will be referred to binding arbitration. The method of selection and compensation for the arbitrator shall also be specified.

(14) The responsibilities for claims defense and expenses of such defense on the plan and/or among the members of a joint self-funded plan.

(15) The deductible amount by type of coverage.

(16) That employee beneficiaries shall not be able to create an equity interest in the plan.

(17) Contribution reductions, rebates, or other financial incentives for achieving loss, claim, and risk reduction.

(18) That interfund loans from the enterprise fund for a self-funded plan to any other school district or educational service district fund are prohibited. A joint self-funded plan shall also make provisions that loans from the enterprise fund of a joint self-funded plan to any member district shall be prohibited.

(19) That the plan shall be in compliance with these rules and regulations and applicable federal and state law at the time of adoption of the plan. The plan shall contain a provision that the plan be modified in order to be in compliance with amendments to these rules and regulations and changes in applicable federal and state law.

NEW SECTION

WAC 392-130-170 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS—ADMINISTRATIVE STANDARDS. A self-funded plan for employee benefits shall meet the following administrative standards:

(1) The plan must require all contributions to be paid in advance of the month in which the insurance is to be provided.

(2) The name of the plan shall include the name of the sponsoring school district or educational service district.

(3) The plan must have, or provide for, a procedure for hiring trustworthy and responsible administrators. The plan must contract for or hire competent personnel to provide risk management and administrative services. Claims shall be administered by competent, disinterested third parties acting independently of all school districts and educational service districts and their personnel. The third party claims administrator shall have no other administrative responsibilities with the plan, a member of the plan, or the district sponsoring the plan.

(4) Third party administrators, including those who administer claims under the plan, must meet any standards that may be established by the Washington state insurance commissioner.

(5) The method or methods by which employees make contributions shall be specified.

(6) Plans must provide that the plan administrators shall furnish to each employee-beneficiary of the plan a written statement or schedule adequately and clearly stating all benefits currently allowable under the plan, together with all applicable restrictions, limitations, and exclusions, and the procedure for filing a claim for benefits.

(7) The method or methods of paying claims under the plan, including claims under excess loss coverage, must be disclosed. The plan may allow payments of

benefits to be made directly to health care service providers.

(8) The plan must comply with the mandatory coverage provisions of chapter 48.44 RCW.

(9) A self-funded plan for disability insurance must comply with the group and blanket disability insurance provisions of chapter 48.21 RCW.

(10) The plan must not engage in pricing practices that set contribution rates lower for new members or employees than those established for existing members or employees. This provision shall not be construed to prohibit individual choice of coverage by beneficiaries from several offered by a plan.

(11) The plan must be fully covered by an excess loss insurance policy issued by an insurer which has a certificate authorizing it to provide insurance in this state.

NEW SECTION

WAC 392-130-175 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS—ACTUARIAL STANDARDS. Each self-funded plan for employee benefits shall meet the following actuarial standards.

(1) The plan must provide for the manner in which actuarial studies are used to establish contribution rates.

(2) The plan must be actuarially sound, that is, assets and income of the plan must be adequate under reasonable estimates for payment of all benefits promised to beneficiaries by the plan. In order to determine actuarial soundness a study shall be conducted annually by an actuary who is a member of the American Academy of Actuaries. The actuarial study shall provide any necessary information for the annual financial statements. A copy of the study shall be provided to each member district's board of directors, the sponsoring district's board of directors, each organization that represents employee beneficiaries of a plan in collective bargaining, and the plan's auditor. The study shall be completed within forty-five days after the close of each fiscal year.

The actuary shall consider the following factors in the study:

- (a) Applicable excess loss insurance;
- (b) Contracts with health care service contractors as defined in RCW 48.44.010(3);
- (c) Other applicable insurance or guarantees;
- (d) Plan factors or provisions for prevention or reduction of adverse selection against the plan by those otherwise eligible to become beneficiaries; and
- (e) Any other factor that the actuary deems appropriate.

NEW SECTION

WAC 392-130-180 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS—REQUIRED POWERS AND DUTIES OF THE SPONSORING BOARD OF DIRECTORS. A self-funded plan for employee benefits shall provide for policies outlining the powers and duties of the sponsoring board of directors regarding the management and operation of a self-

funded plan. The policies shall meet the following standards:

(1) Provide for the adjudication of disputes arising from the administration of the terms and conditions of the plan in regard to beneficiaries.

(2) Provide for the determination of the eligibility of claims for benefits within a maximum of thirty days from the date a claim is submitted by a beneficiary or notify the beneficiary that the benefit has been refused.

(3) Provide for the approval of all material contracts, leases, and agreements or other legal documents.

(4) Provide for the development and preparation of contracts to be signed by each member of a joint self-funded plan as it joins the joint self-funded plan and thereafter.

(5) Require the securing of a fidelity bond upon each and all of the employees of the plan and upon other persons charged with the duty of handling or disbursing any of the moneys of the plan.

(6) Provide for the determination of the amount of contributions required from members of a joint self-funded plan for the purpose of participation in any part or all of the joint self-funded plan.

(7) Establish standards for eligibility of members in a joint self-funded plan, establish procedures for joining and termination, and establish effective dates of coverage.

(8) Provide procedures for the proper accounting and reporting of claims for each of the members of a joint self-funded plan so that it shall be apprised at all times of the nature of the claims arising within its jurisdiction, the manner in which these claims are being handled, and their impact upon the joint self-funded plan.

(9) Provide for an annual audit of the plan's annual financial statements in accordance with the provisions of WAC 392-130-160.

(10) Provide that the amount of insurance be determined, consistent with the provisions of WAC 392-130-175(2), that shall be purchased by the plan insofar as catastrophe coverage, excess loss coverage or stop loss, or other types of insurance is concerned.

(11) Provide for the determination of rates, risks, benefits, and terms of the plan, that the rates and benefits are adjusted based on claim experience, and that changes to these items shall be made after at least forty-five days notice to members of a joint self-funded plan.

(12) Provide for payment of all expenses in connection with the plan. Establish procedures for safe keeping, handling, and investing any moneys received or paid.

(13) Define the duties of any plan administrator and establish record requirements to enable the correct billing of contributions and fees, enrollment of members of a joint self-funded plan and their employees, and payment of claims.

(14) Provide for the ability of the plan to incur expenses and enter into necessary agreements; exercise the full power and authority of any member of a joint self-funded plan with respect to insured risks when requested to do so by the member; or provide for necessary activities to accomplish the purposes of the plan.

(15) Provide for the ability to contract or otherwise provide risk management and loss control services; contract or otherwise provide legal counsel for the defense of claims and/or other legal services; and contract or otherwise provide such professional services as it may deem necessary.

NEW SECTION

WAC 392-130-185 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS—OPTIONAL POWERS AND DUTIES OF THE SPONSORING BOARD OF DIRECTORS. A self-funded plan for employee benefits may provide for the following powers and duties in the policies of the sponsoring board of directors:

- (1) Create an advisory board representing the members of the plan.
- (2) Borrow money and give security therefor.
- (3) Prepare specifications, request bids, and enter into contract for the purpose of underwriting, administering, or providing any part or all of the plan.
- (4) Provide for individual or collective underwriting for members in the plan; serve as the policy-holder of any group policies or plans; determine the methods of claim administration and payment consistent with law; and provide for claims experience for members collectively or separately.
- (5) Study the operation of policies, gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration.
- (6) Establish policies and procedures that may allow an outside organization to perform any of the functions necessary for the carrying out of a plan including excess loss insurance, safety engineering services, administrative services, and any or all other services that the board shall deem expedient for the proper servicing of those members who use the services of the plan.

NEW SECTION

WAC 392-130-190 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED PLANS FOR EMPLOYEE BENEFITS—LIABILITIES OF A SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS. A self-funded plan for employee benefits shall provide for the following liabilities:

- (1) The plan shall be legally liable for payment of all applicable benefits stated in the statement or schedule of benefits in effect at the time there is an occurrence or incident which results in a claim.
- (2) If a plan is liquidated, the plan's legal liability for all applicable benefits stated in the statement or schedule of benefits shall continue until all the employee participants have had a reasonable opportunity to enroll with another employer sponsored insurance provider.
- (3) The plan shall not be liable for any liabilities other than its own.

NEW SECTION

WAC 392-130-195 MANAGEMENT AND OPERATIONAL STANDARDS FOR SELF-FUNDED

PLANS FOR EMPLOYEE BENEFITS—PLAN DEPOSITS AND INVESTMENTS. A self-funded plan for employee benefits shall provide that:

- (1) All moneys be on deposit with the designated county treasurer.
- (2) Investments of plan moneys be made by the designated county treasurer as directed by the appropriate plan administrator in instruments listed in RCW 48.62.070.

NEW SECTION

WAC 392-130-200 MANAGEMENT AND OPERATIONAL STANDARDS OF A SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS—BONDING OF ADMINISTRATORS. A self-funded plan for employee benefits shall provide for the sponsoring board of directors to cause all individuals handling or disbursing money for the self-funded plan including third party administrators to be bonded at all times under a fidelity bond issued by a surety insurer authorized to transact such insurance in this state. The plan shall provide that the bond shall be in favor of the sponsoring school district or educational service district and be for such aggregate penalty amount as may be deemed by the board of directors as reasonably advisable in relation to the amount of moneys to be so handled. The bond agreement shall provide that the bond be noncancelable except upon not less than sixty days advance notice in writing to the board of directors.

NEW SECTION

WAC 392-130-205 MANAGEMENT AND OPERATIONAL STANDARDS OF A SELF-FUNDED PLAN FOR EMPLOYEE BENEFITS—PROHIBITED PECUNIARY INTERESTS. A self-funded plan for employee benefits shall meet the following standards regarding restrictions on the financial interests of the plan's managers.

- (1) No member of the board of directors; administrator, including a third-party administrator; or other person having responsibility for the management of a plan or the investment or other handling of the plan's money shall:
 - (a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the plan is or is to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the plan.
 - (b) Receive compensation as a consultant to the plan while also acting as a member of the board of directors, administrator, or as an employee.
 - (c) Have any direct or indirect pecuniary interest in any loan or investment of the plan.
- (2) No consultant to the plan shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the plan and any insurer, health care service contractor, or health care supply vendor.

WSR 88-04-002
EMERGENCY RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Order 88-9—Filed January 21, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Grant program—Schools for the twenty-first century, chapter 392-310 WAC.

I, Frank B. Brouillet, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is section 105, chapter 525, Laws of 1987, provides for the submission of applications for the initial schools for the twenty-first century pilot projects no later than March 31, 1988. It is necessary that the fundamental policies governing applications, the approval of applications, and the commitments of applicant school districts and the state be established and published at the earliest date for purposes of implementing the administration of the 1987 act and enabling school districts to develop meaningful applications.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 28A.100-.054 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 20, 1988.

By Frank B. Brouillet
Superintendent of Public Instruction

Chapter 392-310 WAC
GRANT PROGRAM—SCHOOLS FOR THE TWENTY-FIRST CENTURY

WAC

- 392-310-010 Authority.
- 392-310-015 Purpose.
- 392-310-020 Administrative functions of the superintendent of public instruction.
- 392-310-025 Incorporation by reference of state board of education rules.

NEW SECTION

WAC 392-310-010 AUTHORITY. *The authority for this chapter is RCW 28A.100.054 which authorizes the superintendent of public instruction to adopt rules to implement the superintendent of public instruction's duties related to the schools for the twenty-first century pilot projects program.*

NEW SECTION

WAC 392-310-015 PURPOSE. *The purpose of this chapter is to establish policies and procedures implementing the schools for the twenty-first century pilot projects program.*

NEW SECTION

WAC 392-310-020 ADMINISTRATIVE FUNCTIONS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION. *The administrative responsibilities of the superintendent of public instruction respecting the schools for the twenty-first century pilot projects program include each of the following activities:*

(1) *Administration of the policies and procedures established by the state board of education at chapter 180-110 WAC.*

(2) *Receipt and disbursement of public and private moneys made available for the support of the pilot projects program.*

(3) *Collection and dissemination of information respecting the pilot projects program through the state clearinghouse for education information.*

NEW SECTION

WAC 392-310-025 INCORPORATION BY REFERENCE OF STATE BOARD OF EDUCATION RULES. *The rules of the state board of education set forth at chapter 180-110 WAC are hereby incorporated into and made a part of this chapter including, but not limited to, WAC 180-110-050 which shall likewise govern the modification or waiver of a rule of the superintendent of public instruction by the superintendent of public instruction.*

WSR 88-04-003

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 17

[June 19, 1987]

STATE—CIVIL SERVICE—EMPLOYEES—BOARD OF TAX APPEALS—AUTHORITY TO DETERMINE SALARIES, JOB DESCRIPTIONS AND QUALIFICATIONS FOR POSITIONS WITHIN THE BOARD OF TAX APPEALS

The Board of Tax Appeals may appoint, discharge and fix the compensation of non-exempt employees listed in RCW 82.03.070 under the guidelines and requirements of chapter 41.06 RCW.

Requested by:

Ms. Michiko Fujii, Chair
Board of the Tax Appeals
1010 Cherry Street, PD-12
Olympia, Washington 98504-8212

WSR 88-04-004
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 18
 [July 23, 1987]

INCORPORATION—COUNTY ROADS—ROAD CONSTRUCTION OR REPAIR—DISCONTINUATION BY COUNTY PRIOR TO DATE OF INCORPORATION

RCW 35.02.220 does prohibit a county from discontinuing construction or repair of county roads which lie within the boundaries of a proposed city or town, prior to the official date of incorporation, for the reason that incorporation has been approved by the voters.

Requested by:

Honorable Louise Miller
 State Representative, 45th District
 17005 - 191st Avenue N.E.
 Woodinville, Washington 98072

WSR 88-04-005
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 19
 [July 28, 1987]

INMATE—SEXUAL PSYCHOPATH—TRANSFER TO DEPARTMENT OF CORRECTIONS—MINIMUM TERM—AUTHORITY OF INDETERMINATE SENTENCE REVIEW BOARD TO REQUEST PAROLE PLAN—NECESSITY FOR COURT ORDER TO RELEASE INMATE

After an inmate adjudicated to be a sexual psychopath pursuant to chapter 71.06 RCW has been transferred to the Department of Corrections and served the minimum duration of confinement (less good time), the Indeterminate Sentence Review Board does have the authority to request that a parole plan be prepared.

After the Board has approved a parole plan, it is not necessary for the superintendent and the Board to have a release signed by the committing court pursuant to RCW 71.06.091 prior to release of the inmate on parole.

Requested by:

Honorable Kathryn S. Bail, Chair
 Indeterminate Sentence Review Board
 700 Capital Center Building, FN-71
 Olympia, WA 98504

Honorable Chase Riveland, Secretary
 Department of Corrections
 Capital Center Building, FN-61
 Olympia, WA 98504

WSR 88-04-006
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 20
 [October 2, 1987]

GAMBLING—AMUSEMENT GAMES—CERTAIN GAMES CONSTITUTE GAMBLING AND ARE AMUSEMENT GAMES

If the outcome of a mechanical or coin-operated game is "as the result of the operation of an element of chance" and "depends in a material degree upon the skill of the contestant," such a game may constitute gambling and be an "amusement game" under RCW 9.46.

The Gambling Commission may approve "digger" or "crane" games as amusement games if warranted by the facts and all statutory criteria have been met.

The award of prizes directly from the game does not affect the classification of a game as an "amusement game" or "gambling device."

Requested by:

Honorable Ronald O. Bailey, Director
 Washington State Gambling Commission
 1110 South Jefferson, PC-21
 Olympia, Washington 98504-8121

WSR 88-04-007
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 21
 [October 21, 1987]

OFFICES AND OFFICERS—STATE—LEGISLATOR—NOMINATION OF COUNTY COMMISSIONER TO VACANCY IN MULTI-COUNTY LEGISLATIVE POSITION

A member of a board of county commissioners (which county is within the joint legislative district) is not eligible to be nominated by a state central committee to fill a legislative vacancy from a joint legislative district.

Requested by:

Honorable Brian Ebersole
 State Representative, 29th District
 5716 Pacific Avenue
 Tacoma, Washington 98408

WSR 88-04-008
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 22
 [October 29, 1987]

OFFICES AND OFFICERS—STATE OFFICES—HIGHER EDUCATION—STATUTORY PROHIBITION AGAINST SERVING AS MEMBER OF STATE BOARD AND DIRECTOR OF JOINT CENTER FOR HIGHER EDUCATION

RCW 28B.50.050 prohibits a member of the State Board for Community College Education from also

serving as the interim director of the Joint Center for Higher Education.

Requested by:

Honorable John N. Terrey
Executive Director
State Board for Community College Education
319 Seventh Avenue, FF-11
Olympia, Washington 98504-3111

WSR 88-04-009

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 23

[November 19, 1987]

JUVENILE COURTS—PROCEEDINGS—SHELTER CARE—DEPENDENCY—ALTERNATIVE RESIDENTIAL PLACEMENT—WHAT IS ENTAILED IN JUDICIAL DETERMINATION—REMOVAL OF A CHILD

A court order approving alternative residential placement issued pursuant to RCW 13.32A.170 or .180 necessarily constitutes a judicial determination that continuation of the child in the home would be "contrary to the welfare of the child" or that removal of the child from the home would be "in the best interests of the child."

Such court orders necessarily require removal of the child from the home.

Removal of a child from the home pursuant to a court order for shelter care under RCW 13.34.060 necessarily entails a judicial determination that such removal is "in the best interests of the child" or, conversely, that continuation of the child in the home would be "contrary to the welfare of the child."

A court order entered in accordance with RCW 13.34.060(6) necessarily requires removal of the child from the home.

Removal of a child from the home pursuant to a court order entered under RCW 13.34.130 necessarily entails a judicial determination that such removal is "in the best interests of the child" or that continuation of the child in the home is "contrary to the welfare of the child."

A court order for out-of-home placement entered in accordance with RCW 13.34.130 necessarily requires removal of the child from the home.

Requested by:

Honorable Jule M. Sugarman
Secretary, Department of
Social & Health Services
OB-2, 4th Floor
Twelfth & Franklin
Olympia, WA 98504

WSR 88-04-010

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 24

[November 23, 1987]

STATE – SEAT OF GOVERNMENT – BOUNDARIES – STATE AGENCIES – LOCATION – PRINCIPAL OFFICES – BRANCH OFFICES – TEMPORARY LOCATION

The seat of government is the city of Olympia as it existed in 1890. All state executive offices must be located at the seat of government, i.e., in, within, near, or in close proximity to the city of Olympia as it existed in 1890.

The agency head and core administrative functions must be located at the seat of government. Branch offices may be located away from the seat of government.

An agency head and core administrative functions may be located other than at the seat of government on a temporary basis.

Requested by:

Honorable Mary Faulk, Director
Department of General Administration
218 General Administration Bldg., AX-22
Olympia, Washington 98504-0622

WSR 88-04-011

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 25

[November 25, 1987]

OFFICES AND OFFICERS—STATE—STATE PATROL—AUTHORITY OF STATE PATROL TO EXERCISE POWERS AND DUTIES OF COMMISSION ON EQUIPMENT

The Washington State Patrol can exercise powers and duties of the Commission on Equipment set forth in chapters 247 and 311, Laws of 1987.

Requested by:

Honorable George B. Tellevik
Chief, Washington State Patrol
General Administration Building
Olympia, Washington 98504

WSR 88-04-012

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 26

[December 2, 1987]

STATE—AGENCY—ATTORNEY STAFFMEMBERS—DUES—AUTHORITY OF STATE AGENCY TO PAY CERTAIN MEMBERSHIP DUES

The Board of Industrial Insurance Appeals may not pay membership dues in the Washington State Bar Association for the Board's attorney staffmembers where membership in the Association is required by law as a prerequisite of employment.

Requested by:

Ms. Sara T. Harmon, Chairperson
 Mr. Frank E. Fennerty, Jr.
 Mr. Phillip T. Bork
 Board of Industrial Insurance Appeals
 Capital Center Building, FN-21
 410 West Fifth
 Olympia, Washington 98504-3421

WSR 88-04-013
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 27
 [December 14, 1987]

PROPERTY—TAXATION—SALE BY CITY—ABILITY OF COUNTY TO AGREE TO RECEIVE LESS THAN DUE AND OWING

To facilitate a sale by a city under RCW 35.53.030 of property held in trust by the city, a county may not agree to receive less than the full amount of taxes, interest, and penalties owed to it on such property in order to place the property back on the tax rolls

Requested by:

Honorable Andrew K. Miller
 Benton County Prosecuting Attorney
 Benton County Justice Center
 7320 West Quinault
 Kennewick, Washington 99336

WSR 88-04-014
ATTORNEY GENERAL OPINION
Cite as: AGO 1987 No. 28
 [December 17, 1987]

FIREARMS—POLICE POWER—JUVENILES—REGULATION OR PROHIBITION OF HANDGUNS OR OTHER FIREARMS BY CITY AND COUNTY LAW ENFORCEMENT—PUBLIC DISCLOSURE OF CONCEALED WEAPON PERMIT APPLICATIONS

RCW 9.41.040(1) does not prohibit a person, found in juvenile court to have committed an offense, from purchase and possession of a handgun, or the issuance of a concealed weapon permit.

City and county law enforcement agencies may refuse issuance of a concealed weapon permit to any person who admits, orally or in writing, his intent to commit a crime in the future with or without a handgun.

The Public Disclosure Act allows public inspection of copies of concealed weapon permit applications for handgun purchases.

Requested by:

Honorable Dick Nelson
 State Representative, 32nd District
 122 N.W. 50th Street
 Seattle, Washington 98107

WSR 88-04-015
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Board of Medical Examiners)
(Podiatry Board)
 [Memorandum—January 19, 1988]

The following is an additional meeting scheduled by the Washington State Board of Medical Examiners: February 26, 1988, 8:30 a.m. – 4:30 p.m., Holiday Inn, Bellevue.

PODIATRY BOARD
1988 MEETING SCHEDULE

January 20, 1988	St. Francis Community Hospital, Education Room, Federal Way
March 11, 1988	St. Francis Community Hospital, Education Room, Federal Way
May 11, 1988	Sea-Tac Marriott Seattle
July 20, 1988	Providence Medical Center, Room Three East Large, Seattle
September 30, 1988	West Seattle Community Hospital, Auditorium Seattle
November 16, 1988	Providence Medical Center, Room Three East Large, Seattle

FACILITY ADDRESSES

- St. Francis Community Hospital
 33400 Eighth Avenue South
 Federal Way, Washington 98003
 (206) 838-9700
- Providence Medical Center
 500 17th Avenue
 Seattle, Washington 98126
 (206) 938-6000
- Sea-Tac Marriott Hotel
 3201 South 176th
 Seattle, Washington
 (206) 241-2000

WSR 88-04-016
PROPOSED RULES
DEPARTMENT OF SERVICES FOR THE BLIND
 [Filed January 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Services for the Blind intends to adopt, amend, or repeal rules concerning:

Amd ch. 67-10 WAC Public records disclosure.
 Amd ch. 67-25 WAC Vocational rehabilitation and services to blind people;

that the agency will at 10 a.m., Thursday, March 10, 1988, in the DSB Field Office, 3411 South Alaska Street, Seattle, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 10, 1988.

The authority under which these rules are proposed is chapter 74.18 RCW.

The specific statute these rules are intended to implement is RCW 74.18.130 - [74.18.]160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 22, 1988

By: Paul Dzedzic
 Director

STATEMENT OF PURPOSE

Title: Describes rules relating to the department's public records disclosure and vocational rehabilitation program.

Description of Purpose: Amends rules regarding organization and location of department and how the vocational rehabilitation program is operated to comply with federal regulation changes.

Statutory Authority: RCW 74.18.130 - [74.18.]160.

Summary of Rules: Reflects changes in the way the department is organized and updates locations of field offices. In the vocational rehabilitation program, amendments are necessary to reflect federal law changes with respect to client appeal rights. Other technical amendments are required in client transportation and maintenance services to eliminate economic needs test.

Reasons Supporting Proposed Action: Changes in federal law. Two years ago the department eliminated the economic needs tests for clients, but neglected to abolish the maintenance and transportation economic needs requirement. This amendment corrects that situation.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Dzedzic, Director.

Person or Organization Proposing Rule: Department of Services for the Blind, 521 East Legion Way, Olympia, WA; a state government entity.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement or Fiscal Matters: Will not create a fiscal impact since we are not requiring economic needs test for vocational rehabilitation services.

Small Business Economic Impact: None.

AMENDATORY SECTION (Amending Order 83-06, filed 12/15/83)

WAC 67-10-020 DESCRIPTION OF ORGANIZATION OF THE DEPARTMENT. (1) Central organization. The chief executive officer of the department is the director. The director shall be appointed by the governor, with the consent of the senate.

(2) Advisory council. The advisory council consists of at least six members of which a majority shall be blind. The members are appointed by the governor. Terms are for a period of three years. Advisory council members elect one of their members as chair for a term of one year.

(3) ~~((The department has two sections: Administrative services and field services which are each headed by an assistant director.~~

~~((4) Field))~~ Organization. (a) The vocational rehabilitation program is operated statewide with ~~((two))~~ one supervisor~~((s))~~. (b) The business enterprise program is operated under one supervisor. (c) The agency operated Orientation and Training Center at 3411 S. Alaska St., Seattle is operated under one supervisor. (d) The state-wide child and family services program is operated under one supervisor. (e) The ~~((medical assistance))~~ independent living program is operated under one supervisor.

AMENDATORY SECTION (Amending Order 83-06, filed 12/15/83)

WAC 67-10-030 LOCATION OF ESTABLISHED PLACES. Location of established places where information about the department may be obtained and department's public records inspected and copied.

(1) Olympia office. The office of the director and the administrative office of the department is located at ~~((921 Lakeridge Drive #202))~~ 521 East Legion Way, Olympia, WA 98504.

(2) Seattle office. The main field office ~~((for field services))~~ is located at 3411 South Alaska St., Seattle, WA 98118.

(3) Field offices. (a) General information about the department may also be obtained at its service locations or major field offices at the following places: ~~((921 Lakeridge Drive))~~ 521 East Legion Way, Olympia, WA 98504; W. 55 Mission, ~~((Rm. 115))~~ Suite 3, Spokane, WA 99201; ~~((601 W. Evergreen, P.O. Box 751))~~ 500 West 8th, Suite 18, Vancouver, WA 98666; ~~((Morris Bldg., 23 S. Wenatchee Ave., Wenatchee, WA 98801, 32 N. 3 St., Rm. 316))~~ 1600 West Perry, Bldg. 1 Suite D, Yakima, WA 98901. (b) Information about ~~((medical assistance))~~ the independent living program, ~~((business enterprises for the blind;))~~ and child and family services can be obtained at the Seattle office, 3411 South Alaska St., Seattle, WA 98118.

AMENDATORY SECTION (Amending Order 83-06, filed 12/15/83)

WAC 67-10-040 OPERATIONS AND PROCEDURES. The general course and method of channeling and determining the operations of the ~~((two sections))~~ department and the nature of requirements of all formal and informal procedures connected therewith are summarized in the following subsections:

(1) Administrative services. This section manages all personnel, training, budget, data processing, and properties management for the department. It prepares budgets and reports, collects funds, certifies and pays invoices. It is responsible for state and federal reports. It provides staff to the advisory council members. Many of the functions of the administrative services section are subject to Washington Administrative Code provisions as authorized by law to be adopted by other departments and enforced by the department.

(2) Field services. This section provides services to all of the department's clients and keeps records of these services.

(a) Vocational rehabilitation. This unit provides a wide array of services to individuals whose disability causes a substantial handicap to employment where there is a reasonable expectation that services will provide a benefit in terms of employability. The primary source of funds for this program is federal, and it is subject to federal regulation.

(b) Business enterprise program. This program assists in the development and maintenance of vending operations operated by blind individuals in public buildings. It is funded by a combination of state and federal funds and is subject to federal regulations. A restricted fund generated by vending machine revenue also funds business enterprise program activities.

(c) ~~((Medical assistance. This program provides medical services to restore vision or minimize vision loss through medical treatment. This program serves people who do not meet the eligibility criteria of the medical assistance eye care program operated by the department of social and health services. Medical eligibility for prescribed services is determined by the department. This program is state funded.))~~ Independent living program. This program provides training, equipment, and goods and services needed by blind persons to achieve or maintain their independence. It is funded by a combination of grant funds from the federal government and from state funds.

(d) Child and family services. This program serves blind children and their families. Caseworkers work directly with children and parents. In addition, school personnel and other service providers are assisted in working with blind children by consultation and training. This program is state funded.

(e) Orientation and training center. This program is operated at 3411 South Alaska St., Seattle, WA 98118. It provides training in alternative skills, personal adjustment, and assessment for full-time blind students. Students live in a privately owned residential facility located nearby.

(f) Other programs. The department may establish such additional programs as the department deems necessary to carry out its legislative purpose.

AMENDATORY SECTION (Amending Order 83-06, filed 12/15/83)

WAC 67-10-060 PUBLIC RECORDS OFFICER. The public records officer for the department shall be the ~~((assistant))~~ deputy director ~~((of administrative services))~~, as designated by the director, for all records maintained by the department whether located at the central office thereof at Olympia, Washington, or at such other offices throughout the state maintained by the department. The public records officer shall be located at such central office. The public records officer shall be responsible for implementation of this chapter regarding release of public records, coordinating the staff of the department in this regard, generally insuring compliance by the staff with the public records disclosure requirements of RCW 42.17.250 through 42.17.320, and maintaining the records index of the department as required.

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

WAC 67-25-120 CERTIFICATION OF TERMINATION OF EXTENDED EVALUATION AND NOTICE. The certification of termination of extended evaluation and notice is applicable when the following is considered:

(1) Certification of eligibility for regular case services. Prior to, or simultaneously with acceptance of a handicapped individual for vocational rehabilitation services, there will be a certification that the individual has met the requirements specified. The certified statement will be dated and signed by the vocational rehabilitation counselor or rehabilitation teacher.

(2) Certification of ineligibility. When it has been determined ~~((beyond any reasonable doubt))~~ by clear evidence that an individual is ineligible for vocational rehabilitation services, there shall be a certification, dated and signed by the vocational rehabilitation counselor or rehabilitation teacher. Such certification of ineligibility will be made only after full participation with the individual or, as appropriate, his/her parent, guardian or other representative, or after affording a clear opportunity for such consultation.

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

WAC 67-25-400 VOCATIONAL REHABILITATION SERVICES—MAINTENANCE. (1) Maintenance services include the client's basic living expenses, such as food, housing, clothing and health care needs, and other subsistence expenses which are essential to enable him/her to receive full benefit from other vocational rehabilitation services.

(2) Maintenance services may be provided to the extent necessary to enable a client to derive the full benefit of other vocational rehabilitation services.

(3) Maintenance may be provided at any time during the rehabilitation process, or following placement, until such time as the client has actually received remuneration for his employment, for a period not to exceed sixty days.

~~((4) Maintenance services provided in connection with diagnostic services shall be provided without regard to the economic need of the client. The provision of maintenance services in connection with any other type of service shall be conditioned on the economic need of the client.))~~

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

WAC 67-25-404 VOCATIONAL REHABILITATION SERVICES—TRANSPORTATION. (1) The department will provide or cause to be provided, within budget constraints, necessary travel and related expenses required to transport clients, thereby enabling them to receive services necessary for the achievement of vocational rehabilitation objectives.

(2) Transportation may include:

(a) Fares or travel costs associated with using public or private conveyances.

(b) Food and/or lodging while in travel status.

(c) Attendants or escorts for clients and the attendants' or escorts' travel costs.

(d) Reimbursement for relocation and moving expenses when a satisfactory adjustment to a job has been made and job security has been established.

~~((3) Transportation, except as provided during diagnostic services, will be provided based on economic need.))~~

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

WAC 67-25-570 FAIR HEARING. (1) Any client dissatisfied with the finding of an administrative review may request from the department, and shall thereupon be granted, a fair hearing. A client who desires a fair hearing shall request such hearing within thirty days after receiving notice from the department of the finding of the administrative review.

(2) A request for fair hearing shall be sent to the Department of Services for the Blind at ~~((921 Lakridge Drive))~~ 521 East Legion Way, Olympia, WA 98504, who will forward it to the office of administrative hearings.

(3) The administrative law judge will make a proposed decision to the director of the department of services for the blind who will make a final determination.

(4) The client will be notified in writing by the director within fifteen days of receipt of the administrative law judge's proposed decision.

~~((5) A client not satisfied with the decision of the director may request a review of the director's decision by the secretary of the federal education department on the individual written rehabilitation program.))~~

WSR 88-04-017

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Forest Fire Advisory Board)**

[Memorandum—January 22, 1988]

The next meeting of the Forest Fire Advisory Board is scheduled for Tuesday, March 15, 1988, beginning at 8:30 a.m. The meeting location is the Conference Room, Forest Land Management Center, Blomberg Road, Olympia.

WSR 88-04-018

**ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2571—Filed January 22, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to income for support of legal dependents, amending WAC 388-28-560.

This action is taken pursuant to Notice No. WSR 87-22-084 filed with the code reviser on November 4, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.04.055 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 19, 1987 [1988].

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2442, filed 11/10/86)

WAC 388-28-560 (~~NET CASH INCOME~~) INCOME FOR SUPPORT OF LEGAL DEPENDENTS. The income of a parent or stepparent shall be allocated as follows:

(1) Parents or stepparents in the assistance unit:

(a) To pay court or administratively ordered support for any legal dependent or dependents not living in his or her home. Such support is exempt up to the amount of the one-person continuing assistance need standard for each legal dependent. Verification must be obtained that the support payments are being made.

(b) To meet the requirements of those needy members of the family who are not eligible for AFDC and for whom the parent or stepparent is legally responsible. Such requirements shall be computed according to appropriate payment level.

(c) To meet the needs of members of the AFDC assistance unit for whom he or she is legally responsible.

(2) Parents or stepparents not in the assistance unit but in the household.

(a) Ineligible parents or stepparents whose income is deemed to the assistance unit shall have that income allocated as in subsections (1)(a), (b), and (c) of this section.

(b) A parent or stepparent who is in sanction status or who is required to be in the assistance unit and has failed to cooperate shall have his or her gross income (~~deemed~~) allocated to the assistance unit.

WSR 88-04-019
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2588—Filed January 22, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Standards—Eligibility, amending chapter 388-29 WAC.

This action is taken pursuant to Notice No. WSR 87-24-036 filed with the code reviser on November 25, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 7, Laws of 1987 1st ex. sess., and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 20, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2404, filed 8/1/86)

WAC 388-29-100 STANDARDS OF ASSISTANCE—BASIC REQUIREMENTS. (1) The (~~state-wide~~) statewide monthly need standards for basic requirements (~~are~~) shall be:

(a) Household with shelter costs effective (~~July 1, 1986~~) December 1, 1987.

Households residing in a lower income housing project assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act shall be treated as renters if they make any utility payment in lieu of a rental payment.

Recipients in Household	Need Standard
1	\$ ((511)) 533
2	((646)) 675
3	((800)) 835
4	((941)) 982
5	((1,084)) 1,131
6	((1,230)) 1,284
7	((1,421)) 1,483
8	((1,572)) 1,641
9	((1,727)) 1,802
10 or more	((1,876)) 1,958

(b) Household with supplied shelter effective (~~September 1, 1986~~) December 1, 1987.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

Recipients in Household	Need Standard
1	\$ ((302)) 316
2	((382)) 399
3	((472)) 492
4	((556)) 581
5	((640)) 667
6	((726)) 757
7	((839)) 874
8	((928)) 968
9	((1,019)) 1,063
10 or more	((1,107)) 1,155

(2) One hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Household with shelter costs effective (~~July 1, 1986~~) December 1, 1987.

Recipients in Household	185% of Need Standard	Recipients in Household	Payment Standard
1	\$ ((946)) 988	1	\$ 186
2	((1,196)) 1,250	2	235
3	((1,480)) 1,546	3	290
4	((1,741)) 1,818	4	342
5	((2,006)) 2,094	5	393
6	((2,276)) 2,377	6	446
7	((2,629)) 2,745	7	515
8	((2,909)) 3,037	8	570
9	((3,195)) 3,335	9	626
10 or more	((3,471)) 3,624	10 or more	680

(b) Household with supplied shelter effective ~~((September 1, 1986))~~ December 1, 1987.

Recipients in Household	185% of Need Standard
1	\$ ((559)) 586
2	((707)) 740
3	((874)) 912
4	((1,029)) 1,076
5	((1,184)) 1,235
6	((1,344)) 1,402
7	((1,553)) 1,618
8	((1,717)) 1,792
9	((1,886)) 1,968
10 or more	((2,048)) 2,138

(3) The state-wide monthly payment standard shall be:

(a) Effective ~~((July 1, 1986))~~ December 1, 1987, payment standards for households with shelter costs reflecting a ratable reduction of ~~((38.6))~~ 41.1 percent of need standards.

Households residing in a lower income housing project assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act shall be treated as renters if they make any utility payment in lieu of a rental payment.

Recipients in Household	Payment Standard
1	\$ 314
2	397
3	492
4	578
5	666
6	756
7	873
8	966
9	1,061
10 or more	1,153

(b) Effective ~~((September 1, 1986))~~ December 1, 1987, payment standards for households with supplied shelter reflecting a ratable reduction of ~~((38.6))~~ 41.1 percent of the need standard.

The monthly payment standard for supplied shelter ~~((includes))~~ shall include requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

AMENDATORY SECTION (Amending Order 2215, filed 3/13/85)

WAC 388-29-125 STANDARDS OF ASSISTANCE—PERSONS IN MEDICAL INSTITUTIONS. Effective ~~((July 1, 1984))~~ January 1, 1986, the monthly standard for clothing, personal maintenance, and necessary incidentals for an eligible person in a skilled nursing home, a public nursing home, a general or tuberculosis hospital, or an intermediate care facility shall be ~~((thirty-five))~~ thirty-six dollars and ~~((fifty-five))~~ sixty-two cents.

AMENDATORY SECTION (Amending Order 2309, filed 12/2/85)

WAC 388-29-130 STANDARDS OF ASSISTANCE—PERSONS IN CONGREGATE CARE FACILITIES. (1) The standard for congregate care shall be the rate established and published by the department for payment to specific congregate care facilities which contract with the department to provide a specific level of care.

(2) The monthly standard for clothing, personal maintenance, and necessary incidentals for a person in a congregate care facility shall be ~~((thirty-six))~~ thirty-seven dollars and ~~((sixty-two))~~ thirty-five cents effective ~~((January 1, 1986))~~ September 1, 1987.

AMENDATORY SECTION (Amending Order 2215, filed 3/13/85)

WAC 388-29-280 STANDARDS OF ASSISTANCE—ADULT FAMILY HOME CARE. (1) The basic monthly standard for adult family home care shall be three hundred ~~((fifty-four))~~ eighty-four dollars and ~~((fifty-five))~~ sixty-five cents.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals for a person in an adult family home shall be ~~((thirty-five))~~ thirty-seven dollars and ~~((fifty-five))~~ thirty-five cents.

(3) Activities of daily living add-ons

- (a) 1-3 activities..... \$~~((36.58))~~ 38.43
- (b) 4-7 activities..... \$~~((54.85))~~ 57.63
- (c) 8-12 activities..... \$~~((79.23))~~ 83.24

(4) Health-related services,
maximum of nine.....each.. \$((24.38))
25.61

~~((5) Respite care..... \$11.57.~~

~~(6) These standards are effective July 1, 1984.)~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-29-146 STANDARDS OF ASSISTANCE—FOSTER CARE.

WSR 88-04-020

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order PT 88-2—Filed January 25, 1988]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Definition—Irrigation systems—Real—Personal, new section WAC 458-12-012.

This action is taken pursuant to Notice No. WSR 87-24-001 filed with the code reviser on November 19, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 84.04.095 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 84.08.010(2).

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 25, 1988.

By Trevor W. Thompson
Assistant Director

NEW SECTION

WAC 458-12-012 DEFINITION—IRRIGATION SYSTEMS—REAL—PERSONAL. (1) The following parts of irrigation systems shall be assessed as real property except as provided in subsections (3) and (4) of this section:

- (a) Penstocks and buried mainlines;
- (b) Sub-mains (underground);
- (c) River pumping stations;
- (d) Water distribution points;
- (e) Concrete head ditches;
- (f) Irrigation wells;

- (g) Electrical distribution stations;
 - (h) Electrical booster stations;
 - (i) Electrical distribution lines (underground); and
 - (j) Buried solid set systems with risers or drip tubes.
- (2) The following shall be assessed as personal property except as provided in subsection (4) of this section:
- (a) Hand lines;
 - (b) Wheel lines;
 - (c) Center pivots;
 - (d) Motors;
 - (e) Pumps;
 - (f) Screens;
 - (g) Electrical panels;
 - (h) Mainlines (above ground); and
 - (i) Laterals.

(3) All irrigations systems shall be assessed as personal property when they are located on publicly owned lands or the system is owned separately from the land, can be removed, and the parties to the lease agree there is no change in title.

(4) If individual components meet the criteria of two or more of subsections (1), (2) or (3) of this section, the component shall be assessed according to the subsection that defines the majority of the component.

WSR 88-04-021

NOTICE OF PUBLIC MEETINGS

SEATTLE COMMUNITY COLLEGES

[Memorandum—January 21, 1988]

The Seattle Community College board of trustees will hold a dinner meeting with the Seattle Central Community College Foundation board of directors at 5:00 p.m. on Tuesday, February 2, 1988, in the Executive Dining Room, BE2111, at Seattle Central.

Following this meeting the regular board of trustees meeting will begin at 6:30 p.m., instead of the regular time of 6:00 p.m., in the Seattle Central Community College Board Room, BA306.

WSR 88-04-022

NOTICE OF PUBLIC MEETINGS

EDMONDS COMMUNITY COLLEGE

[Memorandum—January 25, 1988]

January 21, 1988
Thursday, 4:00 p.m.
Board of Trustees

Lynnwood Hall, Room 424

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and brailled or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 88-04-023
PROPOSED RULES
PUGET SOUND
WATER QUALITY AUTHORITY
 [Filed January 25, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Puget Sound Water Quality Authority intends to adopt, amend, or repeal rules concerning this is a proposal to adopt new chapter 400-12 WAC. This chapter would establish guidelines, criteria, and procedures for local governments to use in carrying out planning and implementation activities to control nonpoint source water pollution, pursuant to elements NP-2, NP-8, and NP-9 of the 1987 Puget Sound water quality management plan.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 17, 1988.

The authority under which these rules are proposed is RCW 90.70.025.

The specific statute these rules are intended to implement is RCW 90.70.055 and 90.70.060.

This notice is connected to and continues the matter in Notice No. WSR 87-22-065 filed with the code reviser's office on November 4, 1987.

Dated: January 20, 1988
 By: Katherine Fletcher
 Chair

WSR 88-04-024
PROPOSED RULES
YAKIMA VALLEY COMMUNITY COLLEGE
 [Filed January 25, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Yakima Valley Community College intends to adopt, amend, or repeal rules concerning participation of children in college activities, new section WAC 132P-40-001;

that the institution will at 1:30 p.m., Tuesday, March 8, 1988, in the Board Room, Prior Hall, Yakima Valley Community College Campus, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.19.050.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 7, 1988.

Dated: January 21, 1988
 By: V. Philip Tullar
 President

STATEMENT OF PURPOSE

Title: WAC 132P-40-001 Participation of children in college activities.

Description of Purpose: To regulate attendance and participation of preteen and nonenrolled teenagers in

college classes, on the campus, and at college sponsored activities.

Statutory Authority: RCW 28B.19.050.

Summary of Rule: Provides specific regulations regarding children in the classroom, on the campus, and at college sponsored activities.

Reasons Supporting Proposed Action: A number of problems have been created by children attending classes with a parent or participating in an activity. This action gives the college authority to take action when appropriate.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Donald W. Hughes, Dean of Student Services, Yakima Valley Community College, P.O. Box 1647, Yakima, WA 98907, scan 558-2386.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Yakima Valley Community College executive council.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: None.

NEW SECTION

WAC 132P-40-001 PARTICIPATION OF CHILDREN IN COLLEGE ACTIVITIES. It is clearly recognized by all employees that Yakima Valley Community College is owned and supported by the citizens of the state of Washington; therefore, the college is for their benefit and use. However, the college is maintained by the people for particular purposes and this regulation is intended to enhance the public's use for those purposes.

The regulations below are equally applicable to all citizens, including all employees and students at Yakima Valley Community College.

(1) It is expected that only registered students will attend any classes at Yakima Valley Community College. Exceptions to this regulation may be made by the instructor for visitors who have been invited to make a presentation or otherwise support the activity of the course. There may be rare occasions when it is appropriate for visitors to attend classes, but such attendance will occur only when the instructor has given specific, advance approval.

(2) Preteen children are not permitted to be on campus unless they are directly and completely supervised at all times by a responsible adult, or are enrolled in the student cooperative child care program, or the Yakima Valley Community College Child Care Services.

(3) Employees are strongly urged not to bring or to invite preteen visitors to the campus, particularly during the times that the employee is on duty, unless the children are under the constant, direct supervision of another (non employee) responsible adult.

(4) Only registered students and authorized college staff/volunteers may participate on field trips, retreats, or other college authorized travel activities.

(5) Responsible adult and teenage citizens are encouraged to visit the campus so long as such visits are compatible with the mission of the college.

WSR 88-04-025
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
 [Memorandum—January 22, 1988]

At the January 19, 1988, board of trustees meeting for Everett Community College, the board moved that their regular meeting schedule include two meetings per month. The regular meetings will be held as follows: The

second and third Monday of each month, 5 p.m., except the third Monday in February. That regular meeting will be on Tuesday, February 16, Everett Community College.

WSR 88-04-026
EMERGENCY RULES
DEPARTMENT OF LICENSING
[Order DLR/160—Filed January 26, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 308-61-026, 308-61-108, 308-61-135, 308-61-158 and 308-61-175 pertaining to registered tow truck operators; WAC 308-61-210, 308-61-240 and 308-61-260 pertaining to wreckers; and WAC 308-61-330 and 308-61-430 pertaining to hulk haulers and scrap processors.

I, Theresa Anna Aragon, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is through inadvertence, notice was not given to the industry in time for responses to the proposed permanent rules. These rules are necessary to implement statutory changes and to provide additional time for input from the various industries affected prior to adoption of permanent rules.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the director of the Department of Licensing as authorized in RCW 46.55.190, 46.80.140 and 46.79.080.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED December 17, 1987.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-026 DEFINITIONS CONTINUED—REGISTERED TOW TRUCK OPERATOR.

(1) "Affidavit of sale" – that document prescribed by the department and given to the successful bidder by the operator. The affidavit shall state that the sale was conducted properly pursuant to chapter 46.55 RCW. The affidavit may be submitted to the department with an application for certificate of title or may be used as a title document by a licensed auto wrecker, hulk hauler or scrap processor.

(2) "Secure area" – a place of safety for vehicle storage and in an area completely enclosed by a fence of

sufficient height and construction to prevent access by the general public, with a gate which can be locked. The fence shall be at least six feet high with at least two strands of barbed wire along the top, for a total combined height of eight feet or more, provided, however, that the fencing requirement may be waived by the department where, due to the topography or zoning a fence would be impracticable and the storage area is secure without a fence. When a licensee has operator registrations under more than one name and owns or leases a common secure area, the areas for each operator registration must be segregated by a physical barrier at least as strong as one strand of chain, cable or barbed wire. When two or more operators with different ownership share a secured area, those respective areas must be segregated by an eight-foot fence as described above.

Wherever practicable secure storage areas will be located on improved property which is leveled and illuminated at night for the safe keeping of stored vehicles.

(3) "Abandoned vehicle report" – is that document, prescribed by the department, by which the operator is to report to the department his/her possession of an abandoned vehicle.

(4) "Notice of custody and sale" – is that document sent by the operator to the registered owner, legal owner (lien holder) (~~and to a vehicle purchaser identified on a seller's report of sale,~~) giving notice of the amount of the operator's lien for services, place and time of public auction if the vehicle is not redeemed, and of the operator's right to seek a deficiency against the last registered owner (~~or the purchaser identified on a seller's report of sale~~)).

(5) "Registered tow truck operator's business location" – is a location at which records and files necessary to conduct the business are kept, and where the operator can normally be contacted by the public.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-108 GENERAL LICENSING PROVISIONS. (1) Staggered licensing – the annual registration issued to tow truck operators shall expire on the date indicated by the director.

(2) Additional secure areas for vehicle storage – additional storage locations may be operated under one registration. No additional bond or insurance will be required for such premises so long as each is covered by the bond and insurance. (~~Each additional storage location must be operated under the same name as the principle place of business where files are kept and must be within the same county. If an operator locates in another county a separate registration is required.~~)

(3) If an operator has more than one registered business location, storage areas for each business location must be listed with the department under its registration.

(4) Change of name and/or address – the department shall be notified immediately, on a form provided by the department, of any change of name and/or address of any business location or of the addition of any location.

~~((4))~~ (5) Changes of ownership – any change of partners or of corporate officers shall be immediately reported to the department in writing. A complete change in ownership requires a new registration.

~~((5))~~ (6) An insurer shall notify the department at least 10 days prior to cancellation of a policy.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-135 GENERAL PROVISIONS. (1) The properly executed written authority to tow or other evidence of lawful possession shall suffice in lieu of current license plates or trip permits for unauthorized or abandoned vehicles.

(2) Billing invoices shall indicate the time of day when an unauthorized or abandoned vehicle arrived at the secure storage area.

(3) A seller's report of sale filed with the department on a form furnished by the department shall relieve a registered owner from liability for costs incurred in the removal and storage of an unauthorized/abandoned vehicle, in addition to relieving that person from other liability pursuant to RCW 46.12.101. ~~((The buyer shown on a seller's report shall be considered an owner of record for purposes of the deficiency claim in this chapter.~~

~~(4) The immediate notice (within 24 hours) and the notice of custody and sale must be mailed to the buyer shown on the seller's report of sale (filed with the department) in the same manner as notices are sent to other owners of record.~~

~~(5))~~ (4) The junk vehicle affidavit of sale as described in (section 23) may be used to sell a vehicle to a licensed hulk hauler, scrap processor, vehicle wrecking yard or it may be used as a supporting document for issuance of a title.

~~((6))~~ (5) A stored vehicle may be redeemed any time before the start of auctioning of that particular vehicle.

(6) The written notice of the right of redemption and opportunity for a hearing to contest the validity of an impoundment, to be sent with the twenty-four hour impoundment notice on an unauthorized vehicle impoundment, shall be separate and in addition to the notice of opportunity for a hearing given to those who redeem vehicles.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-158 STORAGE OF VEHICLES. (1) Handling and returning vehicles in substantially the same condition means that vehicles are to be handled with care so that their value is not diminished.

(2) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order shall not be considered abandoned, nor shall it be processed as such. Any storage fees accrued while under agreement ~~((or))~~ under police hold, or pursuant to a writ or court order, shall not be included in the abandoned vehicle lien. Upon the expiration of a storage agreement ~~((or upon))~~, the lifting of a police

hold, or when the writ or court order is no longer in effect, the operator shall begin the unauthorized abandoned vehicle processing, including the notification to vehicle owners by first class mail within ~~((24))~~ twenty-four hours.

(3) When vehicles are stored pursuant to a writ or court order, the operator shall keep evidence of the inception and termination dates of the writ or court order in the vehicle transaction file.

(4) Vehicles in the custody of an operator shall be kept entirely within a secure area owned or operated under that registration.

~~((4))~~ (5) An operator shall not charge for relocating vehicles between separate secure storage areas which he/she owns or operates.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-175 PROCEDURES FOR SELLING VEHICLES. (1) For purposes of advertising the sale of abandoned vehicles the vehicle identification number shall be used if no license plates are on the vehicle.

(2) A newspaper of general circulation in the county shall mean a newspaper which is one of three with the largest circulation in the county where the sale will be conducted.

(3) If a vehicle in the custody of an operator is not identifiable, including no license plates or registration, the operator shall conduct ~~((a thorough))~~ an examination of the vehicle only to determine its make, model, year and vehicle identification number ~~((, and to locate information leading to the name of the registered and legal owner and the state in which the vehicle was last registered))~~ which shall be included on the abandoned vehicle report to the department.

(4) If the department cannot provide owner information on a vehicle after the operator submits an abandoned vehicle report, the operator may then inspect the vehicle as permitted in section 8(5), chapter 311, Laws of 1987 to determine whether owner information is within the vehicle.

(5) Upon inspection of the vehicle as provided in subsection (4) of this section the operator may submit an additional abandoned vehicle report with additional information from the inspection of the vehicle to assist the department in providing owner information.

(6) The department may require an inspection by the Washington state patrol to verify the vehicle identification number of ~~((such a))~~ an unidentified vehicle. All such information shall be reported to the department, which will communicate with such other states as may be necessary to determine whether the registered and legal owner information is available for the vehicle.

(7) After all reasonable efforts to obtain the owner information have proved unsuccessful, the vehicle may be disposed of in accordance with all procedures except that the notification to the registered and legal owners by certified or registered mail may be omitted. A record of all steps taken to locate the owner(s) of the vehicle shall be kept by the operator for a period of three years.

~~((4))~~ (8) If the operator elects to bid at auction, that bid must be disclosed as such, and ~~((may))~~ shall not merely be an effort to set a minimum for other bids. If an operator is the successful bidder and the bid exceeds the lien for towing and storage, the excess funds shall be remitted to the department just as in any other sale. The operator cannot elect to retain a vehicle at auction because the operator feels that the bidding is insufficient.

AMENDATORY SECTION (Amending Order DOL 684, filed 5/27/82)

WAC 308-61-210 WRECKERS—SPECIAL PLATES. All vehicles used for towing or transporting vehicles or hulks by a motor vehicle wrecker on the highways of this state in the conduct of his business shall bear regular license plates and, in addition, special wrecker's plates. Wrecker's plates may be obtained at a fee of six dollars which includes \$1.00 for reflectorization under RCW 46.16.237 for the first set, and three dollars including reflectorization for each additional set.

The wrecker may purchase sets of plates equal in number to the number of vehicles reported on his application as owned, rented, leased and operated by him and used by him for towing or transporting of vehicles or hulks in the conduct of his business. Should the wrecker purchase, lease, or rent additional vehicles for towing or transporting of vehicles or hulks in his business during the course of the year, he shall so inform the department and may, at the department's discretion, obtain additional plates for such vehicles.

Each vehicle ~~((fused))~~ used for towing or transporting of vehicles or hulks shall display both wrecker plates assigned to it, provided that when any vehicle being towed does not have valid license plates, wrecker plates may be split, with one being displayed on the front of the towing vehicle and the other on the rear of the vehicle being towed.

AMENDATORY SECTION (Amending Order DOL 684, filed 5/27/82)

WAC 308-61-240 WRECKERS—RECORDS AND PROCEDURES FOR MONTHLY REPORTS.

(1) Wrecker books and files. The wrecker shall maintain books and files which shall contain the following:

(a) A record of each vehicle or part acquired giving:

(i) A description of the vehicle or part by make, model, year, and for major component parts vehicle identification number and "yard number" assigned at the time the vehicle or major component part was placed in the wrecking yard;

(ii) The date purchased or acquired by the wrecker, and the name of the person, firm or corporation from which the vehicle or parts were obtained;

(iii) The certificate of title number if registered in a title state, or registration number if a nontitle state or description of document used in lieu of title such as authorizations to dispose and affidavits of sale or bills of sale for vehicle parts; and

(iv) The name of the state and license number in state last registered.

(b) A record of the disposition of the motor, body, and major component parts giving the name of the person purchasing the part(s), if any. Sales to scrap processors shall be accompanied by an invoice or bill of sale, listing each vehicle by its yard number. The wrecker shall retain a copy of such invoice or bill of sale for purposes of inspection for three years; and

(c) A record of each vehicle towed giving:

(i) A description of the vehicle~~((f))~~ by make, model, year, identification number, license number and name of the owner; and

(ii) A statement giving the place where picked up, destination, and date.

These records will be subject to inspection by authorized representatives of the department and law enforcement officials during regular business hours. The foregoing information shall be entered in the wrecker's records within two business days of the event requiring the entry, such as receipt of a vehicle.

(2) Must furnish written reports. By the tenth of the month following receipt of vehicles to be destroyed, each wrecker shall submit a report on the form provided by the department, of all vehicles destroyed, and all vehicles received during the month, whether or not such vehicles have been destroyed. This report shall be made in duplicate. The original shall be sent to the department and the duplicate retained for the wrecker's files. If no vehicles are received to destroy during the month, the monthly report must be sent in stating "none." The report shall give such information for vehicles only as the wrecker is required to keep by subsections (1)(a)(i), (ii), (iii), (iv), and (b), above; it shall be accompanied by properly endorsed certificates of title or ~~((order))~~ other adequate evidence of ownership, registration certificates~~((, and receipts for license plates surrendered to an authorized representative of the department))~~: PROVIDED, That records on acquisitions and sales of vehicle parts need not be included in reports submitted to the department but records shall be kept for three years from date of purchase and available for inspection.

(3) Identity of vehicles in yard. All vehicles placed in the yard shall be identified by a yard number as assigned in the records with numerals marked so as to be clearly visible and legible. If a part of a vehicle is sold which has the number on it, the vehicle shall be renumbered in another location on the vehicle.

AMENDATORY SECTION (Amending Order DOL 684, filed 5/27/82)

WAC 308-61-260 WRECKERS—SELLING USED VEHICLES. (1) Any motor vehicle wrecker who buys motor vehicles for the purpose of sale in an unaltered condition or as a whole vehicle may sell such vehicles if he holds a vehicle dealer's license.

(2) All vehicles acquired for sale under a vehicle dealer's license which are inoperable at the time of acquisition shall be kept inside the wrecking yard and shall be segregated from the remainder of the operation by a continuous physical barrier.

(3) "Inoperable" as used in this section shall mean a vehicle which does not comply with requirements for vehicles used on public streets with regard~~((f))~~ to brakes,

lights, tires, safety glass and other safety equipment. However, for purposes of this section, inoperable shall not include a requirement to be currently licensed.

AMENDATORY SECTION (Amending Order 552-DOL, filed 9/7/79)

WAC 308-61-330 HULK HAULER—PROCEDURES FOR ACQUIRING AND SELLING VEHICLES. (1) Supporting acquisition for transport, resale. The hulk hauler may acquire vehicles or hulks for transport and resale to a licensed motor vehicle wrecker or scrap processor if the transferor can furnish proof of ownership, in the form of a certificate of title properly endorsed, from a state issuing a title, or a certificate of registration and notarized bill of sale from a state issuing only a registration certificate. If such evidence of ownership is not available, the following documents may serve to support acquisition or possession by a licensed hulk hauler:

(a) Private persons. Acquisitions from private persons may also be supported by (~~affidavits of lost or stolen title and authorization[s] to dispose.~~) an:

(i) Affidavit of lost or stolen title signed by the owner on record with the department, and release of interest from the owner.

(ii) (~~Authorization to dispose~~) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(b) All licensees other than wreckers. In addition to a properly endorsed title, acquisition from licensees other than wreckers may also be supported by one of the following:

(i) Affidavit of lost or stolen title signed by owners of record with the department, and release of interest from the owner.

(ii) (~~Authorization to dispose signed by a law enforcement officer~~) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(iii) Affidavit of sale from a registered (~~disposer~~) tow truck operator.

(c) Licensed vehicle wreckers. Acquisition from wreckers licensed by the department may be supported by obtaining his invoice or bill of sale listing each vehicle by the wrecker's "yard number." Such invoice or bill of sale shall be given to the scrap processor purchasing the vehicles listed therein.

(2) Must possess supporting documentation. Before a hulk hauler may transport any vehicle for resale, he shall have in his possession documents to support lawful acquisition or possession, as enumerated in subsection (1) of this section. Such documentation shall be in his possession at all times while the vehicle is transported.

(3) Handling vehicles. A hulk hauler may not operate as a wrecker or remove parts from vehicles, provided that he may remove the parts necessary to sell vehicle salvage to a licensed scrap processor, e.g., the upholstery, gasoline tank, and tires, so long as such parts are removed on the premises of a licensed wrecker or scrap processor where prior permission is granted or at a location approved by the department.

(4) May sell to licensed wreckers and scrap processors. Vehicles in the possession of a licensed hulk hauler

may only be sold to a licensed wrecker or scrap processor.

AMENDATORY SECTION (Amending Order 552-DOL, filed 9/7/79)

WAC 308-61-430 SCRAP PROCESSOR—PROCEDURES FOR ACQUIRING VEHICLES FOR DEMOLITION. (1) Supporting acquisition. A scrap processor may acquire vehicles for demolition if the transferor can furnish proof of ownership, in the form of a certificate of title properly endorsed, from a state issuing a title, or a certificate of registration and notarized bill of sale from a state issuing a registration certificate only. If such evidence of ownership is not available, the following documents may serve to support acquisition or possession by a licensed scrap processor:

(a) Private persons. Acquisition from private persons may also be supported by (~~affidavits of lost or stolen title and authorizations to dispose.~~) an:

(i) Affidavit of lost or stolen title and release of interest from the owner.

(ii) (~~Authorization to dispose~~) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(b) All licensees other than wreckers. Acquisition from licensees other than wreckers may also be supported by one of the following:

(i) Affidavit of lost or stolen title and release of interest from the owner.

(ii) (~~Authorization to dispose~~) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(iii) Affidavit of sale from a registered tow truck operator.

(iv) Invoice or bill of sale from wrecker.

(c) Licensed vehicle wreckers. Acquisition from wreckers licensed by the department do not require the detailed supporting documentation otherwise required, provided that the wrecker has made monthly reports of vehicles wrecked or dismantled, or acquired for such purpose, and has provided an invoice or bill of sale listing each vehicle in the load to be purchased by "yard number." The scrap processor should verify that he is dealing only with currently licensed wreckers; for this purpose, the department will provide lists of licensed wreckers to scrap processors periodically.

(2) Out-of-state vehicles.

(a) Scrap processors may acquire vehicle salvage from out of state provided that the acquisition is supported by appropriate documentation of ownership of each vehicle of the types enumerated in subsection (1); or

(b) Submit an affidavit prepared by the out-of-state hauler certifying his rightful and true possession of the vehicles contained in the bulk shipment and that he has complied with all statutes, rules and regulations relating to such vehicles in the state or province of origin.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-61-050 GROUNDS FOR DENIAL, SUSPENSION, REVOCATION AND, IN THE

CASE OF A REGISTERED TOW TRUCK OPERATOR, ALSO A CIVIL FINE—UNLAWFUL PRACTICES.

**WSR 88-04-027
ADOPTED RULES
DEPARTMENT OF LICENSING
[Order PM 702—Filed January 26, 1988]**

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to landscape architect fees, amending WAC 308-13-150.

This action is taken pursuant to Notice No. WSR 87-24-061 filed with the code reviser on December 1, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.24.086 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 20, 1988.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-13-150 LANDSCAPE ARCHITECT FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

<u>Title of Fee</u>	<u>Fee</u>
((Exam application (nonrefundable))	\$ 25.00
Full exam or retake	125.00
Retake—Part A only	25.00
Part B only	25.00
Part C only	30.00
Part D only	30.00
Part E only	30.00
Initial license	75.00
Renewal	75.00
Late renewal penalty	75.00
Duplicate license	5.00
Reciprocity fee	150.00
Certification	15.00
Replacement certificate	20.00))
<u>Application fee:</u>	
Nonrefundable examination or reexamination (entire) fee	290.00
Refundable fee for issuance of certificate	100.00
<u>Total application fee</u>	<u>390.00</u>

<u>Title of Fee</u>	<u>Fee</u>
<u>Reexamination:</u>	
Section 1 only	17.00
Section 2 only	23.00
Section 3 only	84.00
Section 4 only	78.00
Section 5 only	53.00
Section 6 only	35.00
Renewal (3 years)	180.00
Late renewal penalty	60.00
Duplicate license	15.00
Reciprocity fee (filing and investigation fee)	150.00
Certification	25.00
Replacement certificate	20.00

**WSR 88-04-028
ADOPTED RULES
LIQUOR CONTROL BOARD**

[Order 236, Resolution No. 245—Filed January 27, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Conference Room, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to change of name, WAC 314-12-100.

This action is taken pursuant to Notice No. WSR 88-01-033 filed with the code reviser on December 10, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1988.

By L. H. Pedersen
Chairman

AMENDATORY SECTION (Amending Rule 9, filed 6/13/63)

WAC 314-12-100 CHANGE OF NAME. No licensee shall adopt or make a change in a trade or corporate name without the written consent of the board. Fee, \$((5.00)) 25.00. (See WAC 314-12-070(a).)

An application for change of trade or corporate name must be completed and the required fee paid each time the trade or corporate name is changed on a license.

WSR 88-04-029
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed January 27, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Licensing intends to adopt, amend, or repeal rules concerning motor vehicle fuel tax, chapter 308-72 WAC; new sections WAC 308-72-502, 308-72-504, 308-72-506, 308-72-508 and 308-72-512; and amendatory section WAC 308-72-540;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 82.36.435.

The specific statute these rules are intended to implement is chapter 82.36 RCW, including RCW 82.36.010(3), 82.36.020, 82.36.060, 82.36.070, 82.36.090, 82.36.190 and 82.36.230.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 27, 1988

By: H. George Ides
 Administrator

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: To prescribe specific provisions necessary for administration and enforcement relating to motor vehicle fuel distributors' licenses; also to prescribe circumstances under which sales or distributions made by one licensed distributor may be made to another licensed distributor free of the tax.

Statutory Authority: RCW 82.36.435.

Summary of the Rules: New sections WAC 308-72-502 Sale or distribution at wholesale; 308-72-504 Bona fide wholesale merchant; 308-72-506 Application for distributor's license; 308-72-508 Requirements to qualify for a motor vehicle fuel distributor license; 308-72-512 Cancellation of distributor's license; and amendatory section WAC 308-72-540 Tax exempt transactions.

Purpose and Reason Proposed: To enable the Department of Licensing to administer and enforce chapter 82.36 RCW as it relates to motor vehicle fuel distributor licenses, to enable the department to better serve the public health, safety and welfare.

Responsible Department Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: David T. Kirk, Assistant Director, Vehicle Services, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206)

753-6914 comm or 234-6914 scan; H. George Ides, Administrator, Prorate and Fuel Tax Control, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-4565 comm or 234-4565 scan; and Ildefonso Origenes, Assistant Administrator, Prorate and Fuel Tax Control, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-6860 comm or 234-6860 scan.

Proponents: State of Washington Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: Not required for this statement.

NEW SECTION

WAC 308-72-502 SALE OR DISTRIBUTION AT WHOLESALE. "Sale or distribution at wholesale" includes all sales or distributions of motor vehicle fuel owned or controlled by a distributor, from bulk storage or from a fuel delivery vehicle owned or controlled by him/her, to two or more of his/her own retail service stations, where no change of title or ownership occurs. This is the same standard used in RCW 82.04.270 for imposition of business and occupation tax levied on wholesalers and distributors.

NEW SECTION

WAC 308-72-504 BONA FIDE WHOLESALE MERCHANT. "Bona fide wholesale merchant" for purposes of licensure as a distributor under chapter 82.36 RCW, means any person whose sales or distributions of motor vehicle fuel at wholesale, regardless of whether there is a change in title or ownership of the fuel, constitute a substantial, as distinguished from incidental, sporadic or infrequent part of his/her total volume of motor vehicle fuel sales or distributions in any given month. Provided: No part of one's sales or distributions from a retail service station may be considered to qualify one as a "bona fide wholesale merchant" to qualify as a "distributor" for purposes of RCW 82.36.010(3), regardless of whether there were wholesale sales or distributions from a retail service station.

NEW SECTION

WAC 308-72-506 APPLICATION FOR DISTRIBUTOR'S LICENSE. Application for motor vehicle fuel distributor license shall be made to the department on forms furnished by the department, and shall be accompanied by a fee of ten dollars and the bond or security required by RCW 82.36.060.

The application form shall include the following: (1) Name of applicant.

(2) Physical business address.

(3) Mailing address if different from the business address.

(4) Federal Identification Number or Social Security Number.

(5) Washington Department of Revenue registration number.

(6) Information as to type of business organization, i.e., individual, partnership or corporation, and related information.

(7) Information as to whether the applicant or its principals, partners, or corporate officers, or share holders holding 50% or more of its shares, are currently or have previously been licensed in Washington as distributors.

(8) Tax liability information.

(9) Names of suppliers.

(10) Place where records may be examined.

(11) A declaration signed by the applicant or authorized representative that the statements contained in the application are true and correct.

The information in the application is subject to disclosure to the Internal Revenue Service.

The Department may send an investigator to the business site to verify information contained in the application, and to examine the facilities of the applicant.

NEW SECTION

WAC 308-72-508 REQUIREMENTS TO QUALIFY FOR A MOTOR VEHICLE FUEL DISTRIBUTOR LICENSE. To qualify for a motor vehicle fuel distributor license the applicant must: (1) Meet the definition of a distributor as defined in RCW 82.36.010(3); and

- (2) Have made application for the distributor license on forms furnished by the department; and
- (3) Have paid the required filing fee of ten dollars; and
- (4) Have furnished the bond or security required in RCW 82.36.060; and
- (5) Be registered with the Secretary of State, if required by law; and
- (6) Be registered to do business in the state; and
- (7) Have facilities for the safe and proper storage and handling or delivery of motor vehicle fuel; and
- (8) Have provided a Federal Identification Number (FIN) or Social Security Number (SSN).

NEW SECTION

WAC 308-72-512 CANCELLATION OF DISTRIBUTOR'S LICENSE. A distributor license may be cancelled by the director under the following circumstances. (1) Upon written request of the distributor, such cancellation to be come effective sixty days from the date of receipt of the written request of such distributor for cancellation thereof.

(2) Upon investigation and sixty days notice if the director ascertains and finds that the person to whom the license is issued is no longer engaged in the business of a distributor, and has not been so engaged for the period of six months prior to such cancellation. A licensee whose sales or distributions of motor vehicle fuel at wholesale constitutes less than a substantial part of his/her total volume of sales during a consecutive six month period, as disclosed by the licensee's monthly fuel tax reports, is considered no longer engaged in the business of a distributor, and the distributor license must be cancelled as provided in RCW 82.36.190.

(3) Upon failure to file a new bond or to make deposits (cash) in accordance with RCW 82.36.060, when surety requests to be released or discharged.

(4) Upon failure to file new or additional surety bond or to deposit additional securities within thirty days after being requested to do so by the department.

AMENDATORY SECTION (Amending Order 107MV, filed 9/10/71)

WAC 308-72-540 TAX EXEMPT TRANSACTIONS. (1) Exports. Exemption from the motor vehicle fuel tax may be claimed when a licensed distributor delivers motor vehicle fuel:

(a) To a customer at a point outside the state by means of equipment owned and operated or completely controlled by the licensed distributor.

(b) To a common or contract "carrier" for transportation to a destination outside the state under a bill of lading or a shipping contract that definitely establishes that the Washington licensed distributor claiming the export actually and, in fact, retains title to and control over said fuel until actual delivery to its destination out of the state of Washington.

(c) To another Washington licensed distributor at a destination outside the state. The delivering distributor shall claim exemption by reason of export and shall report such transactions in the same manner as an export to any other customer.

(d) To another Washington licensed distributor at a destination outside this state following a receipt from another licensed distributor in this state. The licensed distributor receiving the fuel in this state shall be deemed the exporter.

(e) To a buyer in an individual quantity of 500 gallons or less for export by the buyer provided that the licensed distributor is also licensed in and agrees to pay the applicable fuel tax to the state, territory or country of destination.

(f) Into the transportation equipment of a buyer or a common or contract carrier employed by the buyer if the buyer transports the fuel to a location in a foreign nation.

(2) United States armed forces and National Guard. Exemption from the motor vehicle fuel tax may be claimed when a licensed distributor delivers motor vehicle fuel:

(a) To the United States armed forces or National Guard under a government bill of lading for the express purpose of exportation from the state by the armed forces or National Guard.

(b) Into the fuel tanks of ships operated by the United States armed forces or National Guard and bearing armed forces or National Guard identification names or numbers.

(c) Into the storage facilities of the United States armed forces or National Guard maintained exclusively for the purpose of fueling ships.

(d) Within the state in accordance with a credit or courtesy card issued to the United States armed forces or National Guard by a licensed distributor provided that a delivery is made into the fuel tanks of ships operated by the United States armed forces or National Guard.

(e) No exemptions shall be granted for motor vehicle fuel sold to contractors acting as agents of the United States armed forces or National Guard for use in the performance of contracts with the United States armed forces or National Guard.

(3) (~~Deliveries~~) Sales or distributions to other licensed distributors. Exemptions from the motor vehicle fuel tax may be claimed when a licensed distributor delivers motor vehicle fuel to another Washington licensed distributor in this state except no sale or distribution of motor vehicle fuel from one licensed distributor to another licensed distributor may be made free of motor vehicle fuel tax where the sale or distribution is a withdrawal of motor vehicle fuel for delivery to a retail service station or to unlicensed bulk storage. No exemption from motor vehicle fuel tax may be claimed where a sale or distribution is a withdrawal of motor vehicle fuel for delivery to a retail service station or to unlicensed bulk storage.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 88-04-030**EMERGENCY RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)**

[Order 293—Filed January 27, 1988]

Be it resolved by the State Personnel Board, acting at the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to Military training leave—Paid, repealing WAC 356-18-130.

We, the State Personnel Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is a suit challenging the validity of WAC 356-18-130 was filed in June 1987. That suit resulted in a declaratory ruling from Thurston County Superior Court invalidating WAC 356-18-130. The State Personnel Board is appealing this ruling and requested a stay of enforcement. The request was denied.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 14, 1988.

By Leonard Nord
Secretary

REPEALER

WAC 356-18-130 MILITARY TRAINING LEAVE-PAID.

WSR 88-04-031
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed January 27, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning Certification—General methods, amending WAC 356-26-060;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 26, 1988

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-26-060.

Title: Certification—General methods.

Purpose: Paragraph three of this rule determines how a certification of candidate names will be completed when more than one candidate has the same examination rating. The present rule provides that such ties shall be broken by lot.

Statutory Authority: RCW 41.06.150(2).

Summary: Adds new language so that when a referral is to be completed with agency promotional candidates who have the same examination rating, all such tie scores shall be certified.

Reasons: To provide a fair mechanism for considering agency promotional candidates who have equal examination ratings. Equally qualified agency promotional candidates should not have their opportunity for promotional consideration determined by chance.

Responsibility for Drafting: Bill Palmer, Department of Ecology, St. Martins College, PV-11, Olympia, WA 98504, phone (206) 459-6825; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Ecology.

Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 284, filed 11/24/87, effective 1/1/88)

WAC 356-26-060 CERTIFICATION—GENERAL METHODS. Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to four more than there are vacancies to be filled from the ranked registers except:

(1) One name will constitute a complete certification when referrals are made from the agency reduction in force register, the service-wide reduction in force register, or the dual agency reversion register. When an appointing authority requests a selective certification for specialized qualifications, the eligible candidate must meet the selective criteria in order to be referred to the position, provided:

(a) The criteria were approved when the position was established, reallocated, or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) It has been determined that the position involves new duties that would warrant future selective certification. Such selective criteria shall not be applied for certification purposes until six months after the department of personnel approves the selective criteria for the position.

(d) In the case of (a), (b), or (c) of this subsection, the director of personnel or designee must determine that the specialized qualifications are still required for successful job performance and cannot be learned within a reasonable length of time.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the open competitive register: **PROVIDED**, That the appointing authority shall select from those eligibles available from the highest ranking names which constitute five names per vacancy to be filled.

(3) When more than one candidate has the same examination rating and when necessary to limit the number of names to four more than the number of vacancies, ties shall be broken by lot upon each instance of certification unless the referral is completed from an agency promotional register. When the referral is to be completed with agency promotional candidates who have the same examination rating, all such tie scores shall be certified.

(4) An unranked register may be used to complete a certification. In such cases, all names appearing on that register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) The director of personnel, upon request and after consultation with the employing agency and employee representatives, may declare positions, groups of positions or classes of positions as in-training positions. The in-training designation is normally at the second level of a series. Such positions may be filled from the register for the entry level class in the series. The employee shall automatically advance to the higher level after completion of one year of service in the entry level class. When the classification specifications require completion of a formal training plan to advance such positions may be filled from a register of any lower level class in the series; the employee shall automatically advance to the next higher level in the series after completion of the training period designated in the specification.

(6) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers and who are members of the protected groups. This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

Prior to the utilization of this subsection, the agency shall determine if there are protected group members on the existing registers. If there

are fewer than three protected group members on the register, the agency shall:

- (a) Appoint one of the eligibles from the register; or
- (b) Request assistance from the department of personnel in completing the certification. The department of personnel and the agency will then initiate targeted recruitment.
- (7) When one or more of the following conditions exist, the director of personnel or designee may certify a sufficient number of names to assure that the requesting agency has not less than five names available for consideration;
 - (a) the position is in an isolated or undesirable location.
 - (b) The position has undesirable working conditions.
 - (c) The agency needs to fill several positions in the class.
 - (d) One or more agencies have had difficulty filling positions in the class.
- (e) The director of personnel or designee determines that such certification is necessary to provide the requesting agency with efficient service.

If such certification contains five or more available promotional candidates, agencies shall appoint from the promotional candidates.

(8) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 88-04-032
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed January 27, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- New WAC 356-05-311 Productivity award leave.
- New WAC 356-18-114 Productivity award leave;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 25, 1988
 By: Leonard Nord
 Secretary

STATEMENT OF PURPOSE

New WAC 356-05-311.
 Title: Productivity award leave.
 Statutory Authority: RCW 41.06.150(8).

Summary: Will define a separate category of employee leave called productivity award leave.

Reasons: This was mandated by HB 91 and adopted by the 1987 legislature.

New WAC 356-18-114.

Title: Productivity award leave.

Statutory Authority: RCW 41.06.150(8).

Summary: Provides for a separate category of employee leave as authorized by the Productivity Board. The rules defines productivity award leave, and the conditions for its use within the state merit system.

Reasons: This was mandated by HB 91 and adopted by the 1987 legislature.

Responsibility for Drafting: Paul Peterson, Department of Personnel, 600 South Franklin, FE-11, Olympia, WA 98504, phone (206) 586-1769; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Personnel.

Result of Federal Law, or Federal or State Court Action: No.

NEW SECTION

WAC 356-05-311 PRODUCTIVITY AWARD LEAVE. Paid leave awarded in lieu of a cash award by the productivity board for suggestions which result in cost avoidances. The amount of the award will follow guidelines established by the productivity board.

NEW SECTION

WAC 356-18-114 PRODUCTIVITY AWARD LEAVE. (1) Paid leave may be awarded by the state productivity board in lieu of a cash award. Such leave is separate from earned vacation and sick leave. The amount of leave awarded is pursuant to the guidelines established by the productivity board.

(2) When the productivity board awards leave in lieu of cash, the following provisions apply.

- (a) Productivity award leave is a separate category of leave. It differs from earned leave in that it is awarded only under the provisions of the productivity board.
- (b) There is no maximum limit on the amount of productivity award leave an employee may have credited or maintain as a balance.
- (c) It may be taken separately or in conjunction with other leave.
- (d) The appointing authority may grant productivity award leave under the same criteria used for granting vacation leave.
- (e) Productivity award leave will revert to a cash award upon resignation from state service, death, or retirement of the employee.
- (f) Agencies which benefit from an employee's suggestion are liable for payment of the productivity award leave, per guidelines established by the productivity board. Employees who transfer between agencies shall maintain their productivity leave.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 88-04-033
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed January 27, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd WAC 356-15-100 Call-back for work preceding or following a scheduled workshift.
 Amd WAC 356-15-110 Call-back for work on scheduled days off or holidays.
 New WAC 356-15-115 Call-back notice for emergency work;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 20, 1988

By: Leonard Nord
 Secretary

STATEMENT OF PURPOSE

Amend WAC 356-15-100.

Title: Call-back for work preceding or following a scheduled workshift.

Purpose: Requires 3 hours' call-back pay for work after scheduled shift if notice was not given prior to scheduled quitting time.

Statutory Authority: RCW 41.06.150(9).

Summary: Would delete "scheduled" from "prior to their scheduled quitting time" so that no penalty pay is required if the employee is notified before he or she leaves work.

Reasons: Employees already receive overtime for work outside their shift. "Call-back" is an extra penalty for having to change plans and make another trip to and from work after one has left the job. This inconvenience is not suffered by employees who are still at work when notified of additional work to be completed.

Amend WAC 356-15-110.

Title: Call-back for work on scheduled days off or holidays.

Purpose: Requires 3 hours penalty pay, for employees who will have to work on their scheduled days off, if they are not so notified by their normal quitting on the second workday preceding the day off or holiday. In addition, employees receive overtime during such work.

Statutory Authority: RCW 41.06.150(9).

Summary: Will add a new sentence to pay only one call back penalty if both after-shift, and day-off work are required by the same notice.

Reasons: Employees called back after their last shift of workweek are often notified that their work will continue into their day off. The employee need return only once; one call-back penalty should be paid. This will clarify a possible conflict of interpretation.

New WAC 356-15-115.

Title: Call-back notice for emergency work.

Purpose: WAC 356-15-100 and 356-15-110 presently require call-back penalty of 3 hours' pay if the employee is notified after quitting time that work will be required after shift or on scheduled days off.

Statutory Authority: RCW 41.06.150(9).

Summary: Emergency work such as responding to forest fires, floods, earthquakes, hurricanes, tornados, tidal waves, riots and spills of hazardous materials often require continuous duty or "away from home" time until the emergency has subsided. This new section defines "emergency" and limits call-back to one penalty payment for the duration of such emergency duty.

Reasons: When an employee is called to duty in an emergency such as described, there is an understanding that the duty will continue for the duration of the emergency. The employee knows at that time that he or she must change future plans and return [to] work for an indefinite period. No purpose would be served by paying more than one call-back penalty if the work extends longer than expected.

Responsibility for Drafting: Gail Salisbury, Department of Personnel, 600 South Franklin, FE-11, Olympia, WA 98504, phone (206) 753-5383; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Natural Resources.

Comments: There are many instances where Monday-Friday employees are required to take a second shift or come back for some emergency which will extend into the employee's day off. Only one notice is required; only on trip back is required; and only one penalty should be required.

Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 248, filed 5/28/86, effective 7/1/86)

WAC 356-15-100 CALL-BACK FOR WORK PRECEDING OR FOLLOWING A SCHEDULED WORKSHIFT. (1) Scheduled work period employees shall be notified prior to their ((~~scheduled~~)) quitting time either to return to work after their workshift ends or to change the starting time of their next scheduled workshift.

(a) Lack of such notice for such work shall be considered call-back and shall result in a penalty of three hours of pay at the basic salary in addition to all other compensation due. This penalty shall apply to each call.

(b) The appointing authority may cancel a call-back notification to work extra hours at any time but cancellation shall not waive the penalty cited in this subsection.

(c) These provisions shall not apply to the mid-shift interval in a split shift and an employee called back while in standby status.

(2) Nonscheduled, exceptions, and law enforcement work period employees are not normally paid for call-back. However, if the appointing authority deems it appropriate, those employees may receive compensation, not to exceed the penalty cited above, for call-back.

AMENDATORY SECTION (Amending Order 248, filed 5/28/86, effective 7/1/86)

WAC 356-15-110 CALL-BACK FOR WORK ON SCHEDULED DAYS OFF OR HOLIDAYS. (1) Management may assign employees to work on a day off or holiday. Scheduled and nonscheduled work period employees shall be notified of such assignments at least prior to the employees' normal quitting times on their second work day preceding the day off or holiday (except Sunday when it is within the assigned workshift).

(a) If management does not give such notice, affected employees shall receive a penalty payment of three hours pay at the basic salary in addition to all other compensation due them.

(b) Management may cancel work assigned on a day off or holiday. However, if management does not notify affected employees of such cancellation at least prior to their normal quitting times on their second work day preceding the day off or holiday work assignment, affected employees shall receive a penalty payment of three hours pay at the basic salary.

(2) These provisions shall apply to employees in paid leave status.

(3) These provisions shall not apply to an employee assigned work on a day off or holiday while in standby status or on a contingency schedule as provided in WAC 356-15-090(3).

(4) When a call qualifies for penalty pay in both WAC 356-15-100 and 356-15-110, one call-back penalty will be paid.

NEW SECTION

WAC 356-15-115 CALL BACK NOTICE FOR EMERGENCY WORK. A call to perform duties to prevent or minimize loss of life or damage to property and/or natural resources in emergencies is notice of the need to work extra hours until released from emergency duties. Emergencies are human-caused events or natural phenomena that require immediate action to prevent or minimize loss of life or damage to property and/or natural resources such as fires, floods, earthquakes, hurricanes, tornados, tidal waves, riots, and spills of hazardous materials.

**WSR 88-04-034
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed January 27, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning miscellaneous leave, amending WAC 356-18-120;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 19, 1988

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-18-120.

Title: Miscellaneous leave.

Purpose: Subsection (1) allows for paid leave to permit employees to take state examinations, receive assessment from the employee advisory service and perform civil duties. Subsection (2) allows employees to retain their current salary while on miscellaneous leave. However, any additional compensation, excluding travel reimbursement or per diem, received for performing civil duties must be returned to the agency.

Statutory Authority: RCW 41.06.150(8).

Summary: Would allow employees to retain civil duty pay while reducing their salary or wages by an amount equal to the civil duty pay, excluding travel reimbursement and per diem.

Reasons: Due to the Federal Tax Reform Act of 1986, a state employee who takes miscellaneous leave under WAC 356-18-120(2) is taxed by the federal government for jury duty income that, under the current rule, the employee ultimately does not retain.

Responsibility for Drafting: John Boesenberg, Department of Personnel, 600 South Franklin, FE-11, Olympia, WA, phone 586-1769; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Personnel, governmental agency.

Comments: None.

Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 253, filed 7/1/86, effective 8/1/86)

WAC 356-18-120 MISCELLANEOUS LEAVE. (1) Leave with pay may be allowed to permit an employee to take an examination for a state position, receive assessment from the employee advisory service, serve as a member of a jury, or perform other civil duties.

(2) Employees who receive compensation for performing civil duties during working hours shall retain ((their regular salary but the amount of such additional compensation up to the amount of the employee's basic salary shall be returned or credited back to the agency. The employees shall retain travel reimbursement, and per diem, if any)) the amount compensated and any travel reimbursement and per diem. The salary or wages of an employee receiving compensation for civil duties shall be reduced by an amount equal to the civil duty pay excluding that amount designated as travel reimbursement or per diem. Employees receiving such compensation shall provide their agency with documentation showing the amount of civil duty pay.

**WSR 88-04-035
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed January 27, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning hours of work, amending WAC 356-15-085;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 20, 1988
By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-15-085.

Title: Hours of work.

Purpose: Specifies that full-time employment shall be compensated for not less than forty hours per week.

Statutory Authority: RCW 41.06.150(9).

Summary: Would permit an appointing authority to establish a full-time schedule of less than forty hours a week within specific guidelines.

Reasons: Allows agency an additional option in addressing inequities due to salary survey underfunding. Employees' work hours could be reduced in lieu of pay increase.

Responsibility for Drafting: Karen Place, International Federation of Professional and Technical Engineers (Local 17), 2900 Eastlake Avenue East #300, Seattle, WA, phone 328-7321; Implementation and Enforcement: Department of Personnel and individual agencies.

Agency or Organization Submitting Proposal: International Federation of Professional and Technical Engineers.

Comments: None.

Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 248, filed 5/28/86, effective 7/1/86)

WAC 356-15-085 HOURS OF WORK. (1) Requirements regarding working hours shall be specified for all employees by each agency but shall not result in full time employment being compensated for less than forty hours per week except as provided in (2) below.

(2) An appointing authority may establish a full time work schedule of less than forty hours per week for designated positions provided:

(a) The positions are allocated to a job class which has a salary range four or more base ranges below the salary survey range most recently adopted by the board; and,

(b) All positions within the same job class within the same agency have the same number of hours in the full time work schedule; and,

(c) The hours in the full time work schedule are reduced below forty by no more than the percentage difference between the survey range and actual range for the job class.

(3) Scheduled and non-schedule work period employees whose full time work schedules are less than forty hours per week shall be entitled to compensation at the overtime rate for time worked in excess of forty hours in a workweek, or time worked on a regularly scheduled day off or holiday (except Sunday when it is within the assigned workshift). Time worked in excess of the regular work shift, up to forty hours in a workweek, shall be compensated at the regular rate.

WSR 88-04-036
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 28, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning aid to families with dependent children eligibility, amending chapter 388-24 WAC;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the Auditorium, 12th and Franklin, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1987 [1988].

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 23, 1988. The meeting site is in a location which is barrier free.

Dated: January 27, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

Re: WAC 388-24-040, 388-24-050 and 388-24-125.

Purpose of the Rule Change: To redefine minor parents and clarify requirements for establishing assistance units.

Statutory Authority: RCW 74.08.090.

Reason(s) These Rules are Necessary: PL 99-514 and CFR 233.20 (a)(1)(i).

Summary of the Rule Change: The Tax Reform Act of 1986 made technical amendments that clarify certain provisions of the Social Security Act. It clarified that a minor parent would be "under the age of 18." This change removes emancipation (as through marriage) as a consideration for the composition of assistance units. If a parent or child is temporarily absent from the household but still meets the definition of a member of the assistance unit, the grant standard shall be for all persons in the assistance unit. Clarifies requirements for assistance paid on behalf of an unborn. Reformatted the rule to provide clarity.

Person Responsible for Drafting, Implementation and Enforcement of this Rule Change: Rita Jefferson, Program Manager, AFDC/Refugee Assistance Section, Division of Income Assistance, OB-31C, phone 753-0471, scan 234-0471.

This rule change is necessary as a result of federal law.

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-040 AID TO FAMILIES WITH DEPENDENT CHILDREN—SUMMARY OF ELIGIBILITY CONDITIONS.

((Effective September 1, 1985;)) The department shall grant AFDC ((shall be granted in)) on behalf of a needy child who:

- (1) ((Who is under the age of eighteen years;
- (a) AFDC may be granted to a pregnant woman with no other children, provided there is medical confirmation the pregnant woman is in the third trimester of pregnancy. The third trimester is defined as the three calendar months preceding the expected month of birth. Acceptable source of medical confirmation is a written statement from a licensed medical practitioner confirming pregnancy and the expected date of birth.
- (b) AFDC shall be continued through the month the child reaches the maximum age.
- (2) Who is a resident of the state of Washington, or who lives with a parent or other relative who is a resident of the state of Washington— see WAC 388-26-055 through 388-26-105;
- (3) Who is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent— see WAC 388-24-055 through 388-24-074. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (chapter 26.26 RCW) or a person whose parentage has been established by court order. For the purpose of determining eligibility for AFDC, a person not married to the child's parent when the child was born, or whose parentage has not been established by court order, shall be considered a parent only for periods beginning on or after the date the department documents the person acknowledges parentage and meets the criteria of the Uniform Parentage Act. If parentage is contested, a court order will be required to determine parentage. If unemployment of a parent or stepparent is the basis of deprivation, all provisions of WAC 388-24-074 apply;
- (4) Whose parent or stepparent, if incapacitated, does not refuse available medical treatment without good cause as specified in WAC 388-24-065(1);
- (5)(a) Who) Is living in the home of a relative of specified degree, except for a temporary period(, as provided in) (see WAC 388-24-207 and 388-24-125); ((or
- (b) Who, as a result of judicial action, was removed from his or her home and placed in foster care after April 30, 1961, and who meets the conditions specified in WAC 388-24-207;))
- ((6)) (2) ((Who) Is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States ((as described in) (see WAC 388-26-120);
- ((7) Whose parent or stepparent has not transferred property contrary to law or DSHS rules in WAC 388-28-457 through 388-28-465;
- (8)) (3) ((Who) Is in financial need ((=) (see chapters 388-28 and 388-33 WAC);
- ((9)) (4) Is a resident of the state of Washington, or resides with a parent or other relative who is a resident of the state of Washington (see WAC 388-26-055 through 388-26-105 and WAC 388-24-125);
- (5) Is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (see WAC 388-24-055 through 388-24-074);
- (6) Meets the following age requirements:
- (a) ((Who) Is ((a-child) under eighteen years of age ((and)); or
- (b) Is under nineteen years of age ((who is)) and a full-time student reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which ((nineteen years of age is reached, except;)) the ((school or training requirement shall not apply to an unmarried parent eighteen years of age and under nineteen years of age when such parent and his or her)) child ((live in the home of such parent's parent or legal guardian. Such parents shall be included in an assistance unit as a needy child under rules applicable to minor parents in WAC 388-24-050(3) without regard to school or training attendance.
- (10) For persons to be included in the AFDC assistance unit, see WAC 388-24-050) reaches age nineteen; or
- (c) Is unborn and there are no other eligible children in the household. In this case, the department grants AFDC only to the unborn's mother, provided:
- (i) There is medical conformation the woman is in the third trimester of pregnancy (the three calendar months preceding the expected month of birth); and
- (ii) If such child was born and residing in the same household as the woman, in the month of payment, they would otherwise be eligible for aid to families with dependent children.

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. ((Effective September 1, 1985; AFDC is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of certain individuals residing together:))

(1) ((Certain individuals, if living in the family home, must be included in a single assistance unit for determination of eligibility and payment amount; such individuals, except as provided in WAC 388-28-590, shall be included in the assistance unit regardless of their income or resources, and shall be excluded only if ineligible due to factors not related to need. Such ineligible individuals include, but are not limited to:

- (a) Recipients of SSI benefits;
- (b) Aliens not meeting the citizenship and alienage requirements as specified in WAC 388-26-120; and
- (c) Individuals under sanction for noncooperation with the work incentive or employment and training programs as provided in WAC 388-24-107, or with child support enforcement as provided in WAC 388-24-108 and 388-24-109.

(2) The following individuals, under the conditions) Except as specified in subsection ((+)) (3) of this section, ((if living in the home, must be included in a single assistance unit) the department shall include, in a single assistance unit, the following persons living together:

- (a) A woman in her third trimester of pregnancy who has no other child; or
- (b) The ((child or children) child(ren), including all ((natural or adoptive) full or half brothers ((or-half) and sisters of such ((child or children) a child(ren); and
- ((b)) (c) The ((natural or adoptive parent or parents;)) parent(s) or ((stepparent or stepparents-)) stepparent(s) with whom the ((child or children) child(ren) lives; ((or); A minor parent must be included in the same assistance unit as such minor parent's eligible child or children)) and
- (d) A minor parent's parent who claims to be the needy caretaker relative of:

- (i) The minor parent,
- (ii) The minor parent's child, or
- (iii) The minor parent's full or half brother or half sister.
- ((3)) (2) ((The following individuals, if living in the family home) Except as specified in subsection (3) of this section, the department may ((be included) include in ((a single) the assistance unit ((with the eligible child or children) at the option of the family:
- (a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the ((child or children) child(ren), if a parent ((or parents do) does not reside in the family home; or
- (b) The stepbrothers or stepsisters of a child ((or children) included in the assistance unit(, except a stepbrother or stepsister must be included in the assistance unit as specified in subsection (1) of this section if the assistance unit includes such stepchild's natural or adoptive full or half brother or half sister), except as required in subsection (1) of this section.

((c) The natural or adoptive parent or parents or stepparent or stepparents of a minor parent, including a parent eighteen years of age and under nineteen years of age as specified in WAC 388-24-040(9); shall have the option of not being included in the assistance unit of the minor parent and minor parent's eligible child; except a minor parent's parent or stepparent shall be included in a single assistance unit with the minor parent and the minor parent's child when the following conditions are met:

- (i) The minor parent's parent or stepparent requests assistance as the needy caretaker relative of the minor parent, or the minor parent's child, or the minor parent's full or half brother or half sister; and
- (ii) The minor parent is not legally married or has been married and the marriage has been annulled. If a minor parent is legally married, including a minor parent whose marriage has been dissolved due to legal action other than annulment, a separate assistance unit shall be established to include the minor parent, such minor's child, and such minor's spouse if living in the home; and

(iii) The other parent of the minor parent's child does not live in the home. If the other parent lives in the home, a separate assistance unit shall be established to include the minor parent, the other parent, and their child. If the separate assistance unit is ineligible due to factors not related to need, and the minor parent is not married, the minor parent must be included as a needy child in the assistance unit of his

or her parent or stepparent requesting assistance as specified in subsection (3)(c)(i) of this section:

(4) A single assistance unit shall also be established for:

(a) Only the eligible child or children, including siblings and half-siblings, when:

(i) The child or children's parent or parents are not eligible; or

(ii) The child or children live with a nonneedy relative of specified degree not legally responsible for the support of the child or children; or

(iii) The child or children live with a needy relative of specified degree receiving SSI; or

(iv) The child or children are recipients of AFDC-FC.

(b) Only the eligible parent or parents, or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because of receiving income from SSI.

(c) Only the woman in her third trimester of pregnancy and has no other child or children.)

((5)) (3) The department shall exclude from the assistance unit those persons ineligible due to factors not related to need. These persons include, but are not limited to:

(a) A recipient of SSI benefits;

(b) An alien not meeting the citizenship and alienage requirements (see WAC 388-26-120); and

(c) A person under sanction for noncooperation with:

(i) The OPPORTUNITIES program (see WAC 388-24-107); or

(ii) The department's office of support enforcement (see WAC 388-24-108 and 388-24-109).

(4) The department shall establish two assistance units ((are necessary) when:

(a) ((The responsible relative must temporarily reside apart from his or her family to secure training in accordance with an approved plan. Refer to WAC 388-24-125;

(i) One assistance unit is maintained for the family members in the home; and

(ii) A separate assistance unit is established for the relative in training;

(b)) The child ((or children)) lives with a nonresponsible relative of specified degree who is a member of another assistance unit((:

(c) Two or more assistance units are necessary when two or more persons not married to each other each has his or her own child or children; and there is no child in common; a separate assistance unit is established for each parent and his or her eligible child or children.); or

((7)) (b) ((When)) A relative of specified degree is eligible to receive assistance for two or more children for whom ((he or she)) the relative is not legally responsible((:

(a) One assistance unit is established for each group of children who are siblings; and

(b) A separate assistance unit or units is established for each of the other nonsibling children, except if a nonsibling child is the child of a minor parent and the minor parent lives in the home, such child shall be included in an assistance unit as specified in subsections (2) and (3) of this section), and the children are not full or half siblings.

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-125 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC-LIVING IN HOME OF RELATIVE OF SPECIFIED DEGREE. ((Effective September 1, 1985.))

(1) ((Relationship of child to relative:

(a)) To be eligible for AFDC, a dependent child ((to be eligible for AFDC-R must)) shall be living with ((one or more of the following relatives in a place of residence the relative or relatives maintains as his or her own home)) a relative of specified degree.

(2) The department defines a relative of specified degree as:

(a) The natural mother;

(b) The natural father if:

(i) He was married to the natural mother when the child was born,

or

(ii) The child was born within three hundred days of a termination of marriage; or

(iii) He attempted to marry the natural mother before the child's birth and the child is born within three hundred days after the termination of cohabitation; or

(iv) He receives the child into his home and openly holds out the child as his child; or

(v) He acknowledges paternity in writing with the registrar of vital statistics and the natural mother does not dispute the acknowledgment; or

(vi) He and the child's natural mother have married or attempted to marry after the child's birth; and:

(A) He acknowledges paternity, filed with the registrar of vital statistics; or

(B) With his consent, he is named as the father on the child's birth certificate; or

(C) He is obligated to pay child support by written voluntary promise or by court order.

(c) A person who legally adopts a child.

((ii)) (d) ((Blood relatives (including those of half-blood); father, mother;)) A brother, sister, uncle, aunt, first cousin, nephew, or niece. Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition.

((iii)) (e) A stepfather, stepmother, stepbrother, and stepsister. ((Adoption of a child by a stepparent changes the relationship from stepparent to adoptive parent:

(iii) Persons who legally adopt a child. Relatives of persons who adopt children are included within the definition of "relative" as defined in this section.))

((iv)) (f) A spouse of ((any persons)) a person named in this section ((are)) is within the scope of this provision, although the marriage is terminated by death or divorce.

((v)) (g) ((A child eligible for AFDC-E must be living with both natural parents, or adoptive parents, or a parent and stepparent. In order to determine members of the assistance unit, see WAC 388-24-050 also:

(c) A child eligible for AFDC-FC must live in a licensed family foster home, nonprofit group home, or nonprofit child care institution.

(2) Verification of relationships - relative to child and parents to each other:

All relationships shall be verified in accordance with WAC 388-38-200) A person identified in a court judgment or order as the child's relative as specified in subsection (2)(a) through (f) of this section.

(3) ((Other considerations in determining when)) The department shall determine a child is living in the home of a relative of specified degree((:)) when:

(a) (("Living in home of relative" means)) The ((child is an accepted member of a family unit, and therefore, has a close and direct relationship with a)) specified relative ((assuming)) has assumed parental responsibility for the care, guidance, and control of the child((:)); and

(b) The "home" is a family setting maintained or in the process of being established for the benefit of the family group. A home exists ((as long as the responsible relative exercises responsibility for the care and control of the child;)) even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting, as long as the relative exercises responsibility for the care and control of the child. Such temporary separations include:

(i) Temporary care ((of the child or the responsible relative)) in a hospital or public or private institution when the illness is such that a return to the family can be expected ((and parental responsibility continues)) within ninety days. If the temporary care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-125.

(ii) Attendance of a child in school ((when the purpose is primarily for obtaining an education or vocational training.)) as follows:

(A) The ((responsible)) relative retains full responsibility for the child and the child returns home during a year's period, at least for summer vacation((: The monthly grant standard for a child attending school away from home shall be as specified in WAC 388-29-145. However, even temporary absence of a child from his or her home for this purpose makes a child ineligible for AFDC unless the attendance at the school is due to:)); and

((A)) (B) The need for specialized education ((and)) or training is not available in the child's home community, and ((such specialized)) the education is recommended by local school authorities((: or

((B)) (C) Isolation of the child's home ((making)) makes it necessary for him or her to be away from home to attend school((:); or

((C)) (D) ((Enrollment on or after September 1, 1981.)) The child is enrolled in an Indian boarding school administered through the Bureau of Indian Affairs.

(iii) Visits in which the ((child or responsible relative is)) person plans to be away from home for ninety days or less, including visits of a child to a parent residing away from the child's customary family home. If the responsible relative or child leaves the home for more

than ninety days, eligibility is redetermined in accordance with the new circumstances.

(iv) Attendance of a responsible parent in a department-approved vocational training program (~~when attendance is necessary for a responsible relative to reside temporarily apart from his or her family to secure the training~~). Absence is considered temporary for the period of time required to complete the training program (~~if the responsible relative retains parental responsibility for the child during the absence and plans to return to the home upon completion of training~~;

~~(A) CSO approval is required for the training plan. (See WAC 388-57-028(2).)~~

~~(B) A separate assistance unit shall be established for the responsible relative in training away from home) (see WAC 388-57-028).~~

(v) Temporary placement of the child in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed thirty days.

~~((c)) (4) ((An AFDC payment can be made for))~~ The department may authorize a child who is a ward of the juvenile court, or other agency to whom the court has delegated authority, if all other eligibility factors have been met and the relative of specified degree actually carries out the everyday care, control, and supervision of the child.

~~(d) ((An AFDC payment cannot be made if the court, or other agency to whom the court has delegated authority, has physical custody of the child and carries out the actual day-to-day care, control, and supervision of the child.~~

~~(e) An AFDC payment can be made to the caretaker relative in behalf of a child even if) The child is in foster care ((The caretaker relative can apply for and receive AFDC for himself or herself and the child for thirty days, even though the child is not physically in the custody of the relative if), and:~~

(i) The caretaker relative applies and is otherwise eligible(;;);

(ii) The child is returned to the relative's home before the end of the thirty-day assistance period(;;); and

(iii) No AFDC payments are being made for the child, either in another relative's home or through AFDC-FC in the same thirty-day period.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 88-04-037
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 28, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Standards of assistance—AFDC—Child in need of specialized education or training, repealing WAC 388-29-145;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the Auditorium, 12th and Franklin, OB2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 74.08.044.

The specific statute these rules are intended to implement is RCW 74.08.045.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 23, 1988. The meeting site is in a location which is barrier free.

Dated: January 27, 1988

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

Re: WAC 388-29-145.

Purpose of the Rule Change: To repeal rules that establish a separate standard for a student temporarily residing away from the family home.

Reason These Rules are Necessary: Federal clarification of CFR 233.20 (a)(1)(i) which requires grant payments be made on an equitable basis.

Summary of the Rule Change: The current rule requires payment of clothing and personal incidentals standard for eligible AFDC children who temporarily reside away from the family home to attend school. The assistance unit is entitled to the full proportion of the AFDC grant when the child is a member of the assistance unit.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Rita Jefferson, Program Manager, AFDC/Refugee Assistance Section, Division of Income Assistance, OB-31C, phone 753-0471, scan 234-0471.

This rule change is not necessary as a result of federal law, federal court decision or state court decision.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-29-145 STANDARDS OF ASSISTANCE—AFDC—CHILD IN NEED OF SPECIALIZED EDUCATION OR TRAINING.

WSR 88-04-038
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 28, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning time limit for disposal, amending WAC 388-38-110;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the Auditorium, 12th and Franklin, OB2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 74.04.057.

The specific statute these rules are intended to implement is RCW 74.04.057.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 23, 1988. The meeting site is in a location which is barrier free.

Dated: January 27, 1988

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-38-110.

Purpose of the Rule or Rule Change: To incorporate Agreed Order of Modification, Civil No. C84-334D, to the *Peterson vs. Rahm* consent order.

Statutory Authority: RCW 74.04.057.

Summary of the Rule or Rule Change: Good cause condition for timely processing is modified from five calendar days to five working days from the date all information is received.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule or Rule Change: Rita Jefferson, Program Manager, DIA, Office of Assistance Programs, phone 753-0471, scan 234-0471, mailstop OB-31C.

These rules are necessary as a result of state court decision.

AMENDATORY SECTION (Amending Order 2380, filed 5/21/86)

WAC 388-38-110 TIME LIMIT FOR DISPOSAL. (1) The time limit from the date of application to the date of disposal action as specified in WAC 388-38-120(4) is thirty days for AFDC and forty-five days for GA. In applying this rule, the ~~((day application is made is not counted))~~ department shall count as day one the date following the date of application.

(2) The department shall act on each application ~~((shall be acted upon))~~ as quickly as possible~~(;)~~ and within applicable time limits unless exceptional circumstances ~~((constituting good cause in an individual case))~~ require a longer period of time. Exceptional circumstances, subject to rules in subsection ~~((2))~~ (3) of this section, considered good cause for delay in disposing of an application include, but are not limited to~~((, the following))~~:

(a) The applicant ~~((fails to))~~ did not provide requested verification within ten days of a written request;

(b) Eligibility decisions depend on medical reports and there is delay in obtaining ~~((such))~~ the reports ~~((from the examining doctor))~~ or in securing medical information;

(c) Eligibility depends ~~((upon))~~ on correspondence ~~((because of))~~ with out-of-state or intercity contacts and no other verification is available for the eligibility factor; or

(d) Eligibility depends ~~((upon))~~ on extensive property appraisals.

~~((2))~~ (3) For AFDC, when ~~((one or more))~~ exceptional circumstances exist ~~((as specified in subsection (1) of this section))~~, good cause for delay in processing an application also exists only if ~~((all the following conditions have been met))~~ the department:

(a) ~~((The department has notified the applicant in writing))~~ Within twenty days of the date of application, notified the applicant in writing of ~~((each))~~ specific ~~((piece of))~~ information needed ~~((for processing the application))~~ to determine eligibility; and

(b) ~~((In the cases where the department, subsequent to requesting the applicant provide information, determined the need for additional information or action, the department has notified the applicant in writing of the specific information or action needed))~~ Within five ~~((calendar))~~ days of ~~((the date such))~~ determining a need ~~((became known to the department))~~ for additional information or action, notified the applicant in writing of such need; and

(c) ~~((The department))~~ Determined eligibility and disposed of the application within five ~~((calendar))~~ working days of ~~((the date the department received))~~ receiving all information necessary to determine eligibility; and

(d) ~~((The department))~~ Determined ~~((whether or not))~~ if good cause ~~((for delay))~~ exists and documented ~~((such determination))~~ the decision in the case record on or before ~~((the date))~~ the time limit for processing the application expired.

~~((3))~~ (4) The department shall dispose of applications for medical assistance ~~((will be disposed of))~~ in accordance with WAC 388-84-105 and 388-84-110.

~~((4))~~ For applications submitted in intensive applicant employment services demonstration project areas by persons not exempt from participation under WAC 388-57-095, the date of authorization is the day following termination of participation in the intensive applicant employment services, but shall be no later than thirty days after the date of application unless subsection (1)(a) through (d) of this section is applicable.)

WSR 88-04-039

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

{Order 2589—Filed January 28, 1988}

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to aid to families with dependent children eligibility, amending chapter 388-24 WAC.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this amendment is necessary to clarify provisions of the Social Security Act within the 1986 Tax Reform Act in regard to the definitions of a minor parent and members of an assistance unit.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-040 AID TO FAMILIES WITH DEPENDENT CHILDREN—SUMMARY OF ELIGIBILITY CONDITIONS. ~~((Effective September 1, 1985,))~~ The department shall grant AFDC ~~((shall be granted in))~~ on behalf of a needy child who:

(1) ~~((Who is under the age of eighteen years,~~

~~(a) AFDC may be granted to a pregnant woman with no other children, provided there is medical confirmation the pregnant woman is in the third trimester of pregnancy. The third trimester is defined as the three calendar months preceding the expected month of birth. Acceptable source of medical confirmation is a written statement from a licensed medical practitioner confirming pregnancy and the expected date of birth.~~

~~(b) AFDC shall be continued through the month the child reaches the maximum age.~~

~~(2) Who is a resident of the state of Washington, or who lives with a parent or other relative who is a resident of the state of Washington—see WAC 388-26-055 through 388-26-105;~~

~~(3) Who is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent—see WAC 388-24-055 through 388-24-074. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (chapter 26.26 RCW) or a person whose parentage has been established by court order. For the purpose of determining eligibility for AFDC, a person not married to the child's parent when the child was born, or whose parentage has not been established by court order, shall be considered a parent only for periods beginning on or after the date the department documents the person acknowledges parentage and meets the criteria of the Uniform Parentage Act. If parentage is contested, a court order will be required to determine parentage. If unemployment of a parent or stepparent is the basis of deprivation, all provisions of WAC 388-24-074 apply;~~

~~(4) Whose parent or stepparent, if incapacitated, does not refuse available medical treatment without good cause as specified in WAC 388-24-065(11);~~

~~((5)(a) Who)) Is living in the home of a relative of specified degree, except for a temporary period ~~((as provided in))~~ (see WAC 388-24-207 and 388-24-125); ~~((or~~~~

~~(b) Who, as a result of judicial action, was removed from his or her home and placed in foster care after April 30, 1961, and who meets the conditions specified in WAC 388-24-207;))~~

~~((6)) (2) ((Who)) Is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States ~~((as described in))~~ (see WAC 388-26-120);~~

~~((7) Whose parent or stepparent has not transferred property contrary to law or DSHS rules in WAC 388-28-457 through 388-28-465;~~

~~(8)) (3) ((Who)) Is in financial need ~~((=))~~ (see chapters 388-28 and 388-33 WAC);~~

~~((9)) (4) Is a resident of the state of Washington, or resides with a parent or other relative who is a resident of the state of Washington (see WAC 388-26-055 through 388-26-105 and WAC 388-24-125);~~

~~(5) Is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (see WAC 388-24-055 through 388-24-074);~~

~~(6) Meets the following age requirements:~~

~~(a) ((Who)) Is ~~((a child))~~ under eighteen years of age ~~((and));~~ or~~

~~(b) Is under nineteen years of age ~~((who is))~~ and a full-time student reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which ~~((nineteen years of age is reached, except;))~~ the ~~((school or training requirement shall not apply to an unmarried parent eighteen years of age and under nineteen years of age when such parent and his or her))~~ child ~~((live in the home of such parent's parent or legal guardian. Such parents shall be included in an assistance unit as a needy child under rules applicable to minor parents in WAC 388-24-050(3) without regard to school or training attendance.~~~~

~~(10) For persons to be included in the AFDC assistance unit, see WAC 388-24-050)) reaches age nineteen; or~~

~~(c) Is unborn and there are no other eligible children in the household. In this case, the department grants AFDC only to the unborn's mother, provided:~~

~~(i) There is medical confirmation the woman is in the third trimester of pregnancy (the three calendar months preceding the expected month of birth); and~~

~~(ii) If such child was born and residing in the same household as the woman, in the month of payment, they would otherwise be eligible for aid to families with dependent children.~~

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. ~~((Effective September 1, 1985, AFDC is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of certain individuals residing together.))~~

~~(1) ~~((Certain individuals, if living in the family home, must be included in a single assistance unit for determination of eligibility and payment amount; such individuals, except as provided in WAC 388-28-590, shall be included in the assistance unit regardless of their income~~~~

or resources, and shall be excluded only if ineligible due to factors not related to need. Such ineligible individuals include, but are not limited to:

- (a) Recipients of SSI benefits;
- (b) Aliens not meeting the citizenship and alienage requirements as specified in WAC 388-26-120, and
- (c) Individuals under sanction for noncooperation with the work incentive or employment and training programs as provided in WAC 388-24-107, or with child support enforcement as provided in WAC 388-24-108 and 388-24-109.

(2) The following individuals, under the conditions) Except as specified in subsection ((1)) (3) of this section, ((if living in the home, must be included in a single assistance unit)) the department shall include, in a single assistance unit, the following persons living together:

(a) A woman in her third trimester of pregnancy who has no other child; or

(b) The ((child or children)) child(ren), including all ((natural or adoptive)) full or half brothers ((or half)) and sisters of such ((child or children)) a child(ren); and

((b)) (c) The ((natural or adoptive parent or parents)) parent(s) or ((stepparent or stepparents)) stepparent(s) with whom the ((child or children)) child(ren) lives; ((or} A minor parent must be included in the same assistance unit as such minor parent's eligible child or children) and

(d) A minor parent's parent who claims to be the needy caretaker relative of:

- (i) The minor parent,
- (ii) The minor parent's child, or
- (iii) The minor parent's full or half brother or half sister.

((3)) (2) ((The following individuals, if living in the family home)) Except as specified in subsection (3) of this section, the department may ((be included)) include in ((a single)) the assistance unit ((with the eligible child or children)) at the option of the family:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the ((child or children)) child(ren), if a parent ((or parents do)) does not reside in the family home; or

(b) The stepbrothers or stepsisters of a child ((or children)) included in the assistance unit((; except a stepbrother or stepsister must be included in the assistance unit as specified in subsection (1) of this section if the assistance unit includes such stepchild's natural or adoptive full or half brother or half sister)), except as required in subsection (1) of this section.

((c) The natural or adoptive parent or parents or stepparent or stepparents of a minor parent, including a parent eighteen years of age and under nineteen years of age as specified in WAC 388-24-040(9), shall have the option of not being included in the assistance unit of the minor parent and minor parent's eligible child, except a minor parent's parent or stepparent shall be included in a single assistance unit with the minor parent and the minor parent's child when the following conditions are met:

(i) The minor parent's parent or stepparent requests assistance as the needy caretaker relative of the minor

parent, or the minor parent's child, or the minor parent's full or half brother or half sister, and

(ii) The minor parent is not legally married or has been married and the marriage has been annulled. If a minor parent is legally married, including a minor parent whose marriage has been dissolved due to legal action other than annulment, a separate assistance unit shall be established to include the minor parent, such minor's child, and such minor's spouse if living in the home, and

(iii) The other parent of the minor parent's child does not live in the home. If the other parent lives in the home, a separate assistance unit shall be established to include the minor parent, the other parent, and their child. If the separate assistance unit is ineligible due to factors not related to need, and the minor parent is not married, the minor parent must be included as a needy child in the assistance unit of his or her parent or stepparent requesting assistance as specified in subsection (3)(c)(i) of this section.

(4) A single assistance unit shall also be established for:

(a) Only the eligible child or children, including siblings and half-siblings, when:

(i) The child or children's parent or parents are not eligible; or

(ii) The child or children live with a nonneedy relative of specified degree not legally responsible for the support of the child or children; or

(iii) The child or children live with a needy relative of specified degree receiving SSI; or

(iv) The child or children are recipients of AFDC-FC. (b) Only the eligible parent or parents, or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because of receiving income from SSI.

(c) Only the woman in her third trimester of pregnancy and has no other child or children:))

((5)) (3) The department shall exclude from the assistance unit those persons ineligible due to factors not related to need. These persons include, but are not limited to:

- (a) A recipient of SSI benefits;
- (b) An alien not meeting the citizenship and alienage requirements (see WAC 388-26-120); and

(c) A person under sanction for noncooperation with:

- (i) The OPPORTUNITIES program (see WAC 388-24-107); or

(ii) The department's office of support enforcement (see WAC 388-24-108 and 388-24-109).

(4) The department shall establish two assistance units ((are necessary)) when:

(a) ((The responsible relative must temporarily reside apart from his or her family to secure training in accordance with an approved plan. Refer to WAC 388-24-125;

(i) One assistance unit is maintained for the family members in the home; and

(ii) A separate assistance unit is established for the relative in training.

~~((b)) The child ((or children)) lives with a nonresponsible relative of specified degree who is a member of another assistance unit((:~~

~~((6) Two or more assistance units are necessary when two or more persons not married to each other each has his or her own child or children, and there is no child in common; a separate assistance unit is established for each parent and his or her eligible child or children.); or~~

~~((7)) (b) ((When)) A relative of specified degree is eligible to receive assistance for two or more children for whom ((he or she)) the relative is not legally responsible((:~~

~~(a) One assistance unit is established for each group of children who are siblings; and~~

~~(b) A separate assistance unit or units is established for each of the other nonsibling children, except if a nonsibling child is the child of a minor parent and the minor parent lives in the home, such child shall be included in an assistance unit as specified in subsections (2) and (3) of this section), and the children are not full or half siblings.~~

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-125 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—LIVING IN HOME OF RELATIVE OF SPECIFIED DEGREE. ((Effective September 1, 1985:))

(1) ((Relationship of child to relative:

~~((a)) To be eligible for AFDC, a dependent child ((to be eligible for AFDC=R must)) shall be living with ((one or more of the following relatives in a place of residence the relative or relatives maintains as his or her own home)) a relative of specified degree.~~

~~(2) The department defines a relative of specified degree as:~~

~~(a) The natural mother;~~

~~(b) The natural father if:~~

~~(i) He was married to the natural mother when the child was born, or~~

~~(ii) The child was born within three hundred days of a termination of marriage; or~~

~~(iii) He attempted to marry the natural mother before the child's birth and the child is born within three hundred days after the termination of cohabitation; or~~

~~(iv) He receives the child into his home and openly holds out the child as his child; or~~

~~(v) He acknowledges paternity in writing with the registrar of vital statistics and the natural mother does not dispute the acknowledgment; or~~

~~(vi) He and the child's natural mother have married or attempted to marry after the child's birth; and:~~

~~(A) He acknowledges paternity, filed with the registrar of vital statistics; or~~

~~(B) With his consent, he is named as the father on the child's birth certificate; or~~

~~(C) He is obligated to pay child support by written voluntary promise or by court order.~~

~~(c) A person who legally adopts a child.~~

~~((7)) (d) ((Blood relatives (including those of half-blood); father, mother,)) A brother, sister, uncle, aunt,~~

first cousin, nephew, or niece. Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition.

~~((7)) (e) A stepfather, stepmother, stepbrother, and stepsister. ((Adoption of a child by a stepparent changes the relationship from stepparent to adoptive parent.~~

~~(iii) Persons who legally adopt a child. Relatives of persons who adopt children are included within the definition of "relative" as defined in this section:))~~

~~((7)) (f) A spouse of ((any persons)) a person named in this section ((are)) is within the scope of this provision, although the marriage is terminated by death or divorce.~~

~~((7)) (g) ((A child eligible for AFDC-E must be living with both natural parents, or adoptive parents, or a parent and stepparent. In order to determine members of the assistance unit, see WAC 388-24-050 also.~~

~~(c) A child eligible for AFDC-FC must live in a licensed family foster home, nonprofit group home, or nonprofit child-care institution:~~

~~(2) Verification of relationships—relative to child and parents to each other:~~

~~All relationships shall be verified in accordance with WAC 388-38-200) A person identified in a court judgment or order as the child's relative as specified in subsection (2)(a) through (f) of this section.~~

~~(3) ((Other considerations in determining when)) The department shall determine a child is living in the home of a relative of specified degree((:)) when:~~

~~(a) ((“Living in home of relative” means)) The ((child is an accepted member of a family unit, and therefore, has a close and direct relationship with a)) specified relative ((assuming)) has assumed parental responsibility for the care, guidance, and control of the child((:)); and~~

~~(b) The "home" is a family setting maintained or in the process of being established for the benefit of the family group. A home exists ((as long as the responsible relative exercises responsibility for the care and control of the child,)) even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting, as long as the relative exercises responsibility for the care and control of the child. Such temporary separations include:~~

~~(i) Temporary care ((of the child or the responsible relative)) in a hospital or public or private institution when the illness is such that a return to the family can be expected ((and parental responsibility continues)) within ninety days. If the temporary care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-125.~~

~~(ii) Attendance of a child in school ((when the purpose is primarily for obtaining an education or vocational training:)) as follows:~~

~~(A) The ((responsible)) relative retains full responsibility for the child and the child returns home during a year's period, at least for summer vacation((: The monthly grant standard for a child attending school away from home shall be as specified in WAC 388-29-145. However, even temporary absence of a child from his or her home for this purpose makes a child ineligible~~

~~for AFDC unless the attendance at the school is due to~~); and

~~((A))~~ (B) The need for specialized education ~~((and))~~ or training is not available in the child's home community, and ~~((such specialized))~~ the education is recommended by local school authorities~~((or))~~; or

~~((B))~~ (C) Isolation of the child's home ~~((making))~~ makes it necessary for him or her to be away from home to attend school~~((:))~~; or

~~((C))~~ (D) ~~((Enrollment on or after September 1, 1981,))~~ The child is enrolled in an Indian boarding school administered through the Bureau of Indian Affairs.

(iii) Visits in which the ~~((child or responsible relative is))~~ person plans to be away from home for ninety days or less, including visits of a child to a parent residing away from the child's customary family home. If the responsible relative or child leaves the home for more than ninety days, eligibility is redetermined in accordance with the new circumstances.

(iv) Attendance of a responsible parent in a department-approved vocational training program ~~((when attendance is necessary for a responsible relative to reside temporarily apart from his or her family to secure the training))~~. Absence is considered temporary for the period of time required to complete the training program~~((, if the responsible relative retains parental responsibility for the child during the absence and plans to return to the home upon completion of training.~~

~~(A) CSO approval is required for the training plan. (See WAC 388-57-028(2).)~~

~~(B) A separate assistance unit shall be established for the responsible relative in training away from home) (see WAC 388-57-028).~~

(v) Temporary placement of the child in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed thirty days.

~~((C))~~ (4) ~~((An AFDC payment can be made for))~~ The department may authorize a child who is a ward of the juvenile court, or other agency to whom the court has delegated authority, if all other eligibility factors have been met and the relative of specified degree actually carries out the everyday care, control, and supervision of the child.

~~(d) ((An AFDC payment cannot be made if the court, or other agency to whom the court has delegated authority, has physical custody of the child and carries out the actual day-to-day care, control, and supervision of the child.~~

~~(e) An AFDC payment can be made to the caretaker relative in behalf of a child even if))~~ The child is in foster care ~~((The caretaker relative can apply for and receive AFDC for himself or herself and the child for thirty days, even though the child is not physically in the custody of the relative if)), and:~~

(i) The caretaker relative applies and is otherwise eligible~~((:))~~;

(ii) The child is returned to the relative's home before the end of the thirty-day assistance period~~((:))~~; and

(iii) No AFDC payments are being made for the child, either in another relative's home or through AFDC-FC in the same thirty-day period.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 88-04-040
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2590—Filed January 28, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Standards of assistance—AFDC—Child in need of specialized education or training, repealing WAC 388-29-145.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule needs to be repealed in order to authorize the assistance payment based on the number of eligible persons in the assistance unit per 45 CFR 223.20.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 74.08.044 which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 74.08.045.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1988.

By Leslie F. James, Director
Administrative Services

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-29-145 STANDARDS OF ASSISTANCE—AFDC—CHILD IN NEED OF SPECIALIZED EDUCATION OR TRAINING.

WSR 88-04-041
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2592—Filed January 28, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-88-050 Adequate nursing home care.
 Amd WAC 388-88-101 Residents' rights.

This action is taken pursuant to Notice No. WSR 88-01-038 filed with the code reviser on December 11, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.42.620 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1988.

By Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2275, filed 8/21/85)

WAC 388-88-050 ADEQUATE NURSING HOME CARE. (1) Care and services rendered must be justified as essential to resident health care needs, with the overall goal of restoration, maintenance at the highest possible level of independence, and/or supportive care. The nursing home is obligated to provide adequate nursing home care as defined in chapter 248-14 WAC and federal regulations.

(a) The facility (~~(must)~~) shall make arrangements for:

(i) Physician services, including certification/recertification, plan of care, and visits;

(ii) Special consultant services, laboratory services, x-ray services, and prescription services.

(b) The facility (~~(must)~~) shall provide:

(i) Nursing care and supervision, including provision of twenty-four hour RN staffing when deemed necessary by the provider or the department;

(ii) Personal hygiene: Baths, shampoos, routine nail care, shaves, oral care, and skin care;

(iii) Health records for each resident;

(iv) Services relating to meeting medically related psychosocial needs, ordered by the physician when appropriate;

(v) Except as provided to residents of ICF/MR's, ancillary care services as defined in RCW 74.46.020(2)(~~including~~). Ancillary care services include services provided by activities specialists, audiologists, mental health professionals, social workers, speech pathologists, physical therapists, and occupational therapists;

(vi) A nutritionally adequate and varied diet including supplementary nourishments and vitamins;

(vii) A safe and comfortable environment;

(viii) Safeguards to assure resident rights and personal possessions; and

(ix) Effective July 1, 1988, personal laundry services.

(2) The nursing home (~~(is obligated to)~~) shall provide equipment and supplies essential for the provision of adequate health care as required in subsection (1) of this section (~~(plus)~~). The nursing home shall provide the following items including but not limited to:

(a) Beds, mattresses, bedrails, footstools, traction equipment, cradles, footboards, and trapeze bars;

(b) Resident gowns, linen, (~~(nonpersonal)~~) laundry, and isolation supplies;

(c) Pitchers, basins, bedpans, urinals, commodes, and elevated toilet seats;

(d) Materials and supplies used for care of incontinent residents;

(e) Soaps, lotions, shampoos, toothpaste, mouthwash, and powder;

(f) Alcohol sponges, applicators, tongue depressors, thermometers, band-aids, facial tissue, and swabs;

(g) Appropriate equipment used for patient positioning, protective support, or restraints;

(h) Approved nonlegend antacid suspensions and tablets, antiseptics, laxatives, antidiarrheal medications, analgesics, salt or sugar substitutes;

(i) (~~(Clinitest tape or tablets, guaiac)~~) Over-the-counter screening tests for blood glucose and occult blood in the stool, mineral oil, vaseline, or other lubricants;

(j) Medication supplies including gloves, hypodermic syringes, needles, and intravenous setups;

(k) Supplies for specimen collections, irrigations, and enemas;

(l) Nonreusable (one-time use) or disposable (time-limited use) supplies and devices used in providing nursing home care. Such supplies and devices include, (~~(including)~~) but are not limited to:

(i) Nonsurgical dressings (e.g., decubiti),

(ii) Suction supplies,

(iii) Urethral catheters(;) and drainage systems, and

(iv) Feeding tubes and bags except as provided under subsection (3)(e) of this section(;);

(m) Ice bags and K pads;

(n) Walkers, wheelchairs, wheelchair accessories and wheelchair positioning devices, canes, and crutches not required for exclusive full-time use by a patient for a permanent disability;

(o) Emergency tray, emergency aspirator, emergency oxygen and supplies for its administration;

(p) Infrared lamps and weighing scales.

(3) The exceptions listed below (~~(with)~~) shall be reimbursed in accordance with WAC 388-86-005, 388-87-025, and 388-87-027:

(a) Aids to mobility including wheelchairs and wheelchair positioning devices required for the exclusive use of a patient (WAC 388-86-100) for a permanent disability;

(b) Supplies for intermittent catheterization programs;

(c) Commercial formula, when used as the only source of nutrition;

(d) Surgical dressings limited to primary dressings required as the result of a surgical procedure performed by a physician;

(e) The following supplies or devices replacing all or part of the function of a permanently impaired or malfunctioning internal body organ:

(i) Colostomy (and other ostomy) bags and necessary accouterments,

(ii) Urinary retention catheters, tubes, and bags, and

(iii) Feeding tubes, bags, or pumps.

(f) Vitamins, only as covered by the state formulary.

AMENDATORY SECTION (Amending Order 2039, filed 10/19/83)

WAC 388-88-101 RESIDENTS' RIGHTS. (1) ((Except in cases specified in WAC 388-88-101(3), the medical assistance client or next of kin, guardian or responsible party or the guardian of the client, if the client has been adjudicated to be incompetent, must be informed in writing thirty days prior to the relocation or reclassification. Such notice must include)) The department shall notify the appropriate individual(s) listed in subsection (2) of this section whenever a medical assistance client must be discharged from a nursing home because:

(a) There is a reclassification of the client's required level of care, resulting in termination of medical assistance payments to the nursing home where the client currently resides; or

(b) The nursing home where the client currently resides has requested the client be relocated, and the department has approved, for:

(i) Medical reasons concerning the client;

(ii) The welfare of the client or other residents; or

(iii) Nonpayment by the client.

(2) The department shall provide the notification required in subsection (1) of this section to one or more of the following, as appropriate:

(a) The medical assistance client;

(b) The medical assistance client's legal guardian;

(c) The medical assistance client's next of kin or responsible party.

(3) The department shall provide the notification required in subsection (1) of this section in writing thirty days prior to:

(a) The effective date of the reclassification resulting in termination of medical assistance payments to the nursing home; or

(b) The relocation requested by the nursing home.

(4) The department is not required to provide notification in cases specified in subsections (7) and (8) of this section.

(5) The department's notice shall inform the client of:

(a) The reasons for the proposed change and/or transfer;

(b) ((★)) The client's right to a conference with departmental representatives and any other individuals the client wishes to speak to within thirty days of receipt of such notice;

(c) The client's right to request a fair hearing within ninety days of receipt of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The client's right to be represented at the fair hearing by an authorized representative; and

(f) The existence of any legal services available in the community and the toll-free telephone number of the state long-term care ombudsman.

~~((2))~~ (6) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) The client must request a fair hearing within thirty days of receipt of the reclassification notice in order to have the current level of care continued. Any proposed change and/or transfer shall be delayed pending the outcome of the appeal process.

~~(b) ((If the secretary or his or her designee finds a change in the level of care is not appropriate,)) The department shall take no further action ((shall be taken)) to change the level of care or transfer the patient((- unless)) if the secretary or his or her designee finds a change in the level of care is not appropriate at the time. If there is a change in the situation or circumstances ((at which time)), the ((request)) department may ((be resubmitted)) again initiate action to reclassify or relocate the client.~~

~~(c) ((If the secretary or his or her designee affirms the determination to change the level of care and/or transfer, and no judicial review is filed within thirty days of the receipt of notice of determination,)) The department shall proceed with the planned action if:~~

~~(i) The secretary or his or her designee affirms the determination to change the level of care or transfer, and~~

~~(ii) No judicial review is filed within thirty days of receipt of notice of termination.~~

(d) Medical assistance clients assessed as no longer requiring nursing home care who refuse to transfer to another level of care will be ineligible for medicaid nursing home payment;

(i) Thirty days following the effective date of determination; or

(ii) Thirty days following the fair hearing decision affirming the department's determination of not in need of nursing care.

~~((3))~~ (7) Advance notice is not required when:

(a) The medical assistance client or the next of kin, guardian or responsible party, requests a transfer in writing and waives the right to a period of notice.

(b) An immediate threat to the client's life or health, or that of others is present.

(c) The department judges the facility where the client resides is no longer able to provide Title XIX services due to:

(i) Termination of provider's contract;

(ii) Decertification of the provider;

(iii) Nonrenewal of provider's contract;

(iv) Revocation of provider's license; or

(v) Emergency license suspension.

(8) No notice shall be required if a decision is made to reclassify a client but no discharge, transfer, or relocation of the client from the nursing home is necessary or contemplated as a result of such decision to reclassify.

WSR 88-04-042
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2593—Filed January 28, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to food stamp standard utility allowance, new WAC 388-49-505.

This action is taken pursuant to Notice No. WSR 87-24-078 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.04.050 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1988.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-49-505 UTILITY ALLOWANCES.

- (1) The department shall:
 - (a) Establish an annualized standard utility allowance for use in calculating shelter costs;
 - (b) Obtain FNS approval of the methodology used to establish the standard utility allowance;
 - (c) Establish a separate annualized telephone allowance;
 - (d) Obtain FNS approval of the methodology used to establish the telephone allowance.

(2) Effective March 1, 1988, the annual standard utility allowances by household size are:

Persons in Household	Annualized Utility Standards
1	117
2	125
3	132
4	141
5	149
6	154
7	160
8	165
9	175
10 or more	182

(3) Effective March 1, 1988, the monthly telephone standard is sixteen dollars.

WSR 88-04-043
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF CORRECTIONS
[Filed January 29, 1988]

The Department of Corrections hereby withdraws its notice of intent to adopt WAC 137-60-040 concerning the application and eligibility for furloughs from correctional facilities filed with the code reviser on November 17, 1987, and published in WSR 87-23-042.

Chase Riveland
Secretary

WSR 88-04-044
ADOPTED RULES
DEPARTMENT OF AGRICULTURE
[Order 1963—Filed January 29, 1988]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the noxious weeds grant program, chapter 16-752 WAC.

This action is taken pursuant to Notice No. WSR 87-24-069 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 17.10 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 29, 1988.

By C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1907, filed 9/16/86)

WAC 16-752-001 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

- (1) "Director" means the director of agriculture of this state, or a duly authorized representative.
- (2) "Department" means ~~((any individual, partnership, corporation, firm, or any other entity))~~ the Washington state department of agriculture.
- (3) "Person" means any individual, partnership, corporation, association, agency, or organized group of persons whether or not incorporated.
- (4) "Hay" means the harvested herbage of forage plants, including but not limited to grasses, legumes, sedges and rushes.

(5) "State board" means the Washington state noxious weed control board.

(6) "Abstract" means a concise summary of the main parts of a noxious weed control project.

(7) "Applicant" means a project sponsor.

(8) "BARS" means the budgeting, accounting, and reporting system of municipal fiscal management.

(9) "Environmental checklist" means the form in WAC 197-11-960.

(10) "Executive secretary" means the state noxious weed control board executive secretary.

(11) "Intangible benefits" means those benefits lacking physical form including but not limited to goodwill, increased public awareness, and aesthetic improvements.

(12) "Intangible costs" means those costs lacking physical form including but not limited to ill will, decreased public enjoyment, reduced aesthetics.

(13) "Integrated pest management" means a decision-making process which combines all feasible control techniques into a program for managing targeted noxious weeds including but not limited to prevention, monitoring, consideration of alternative methods, and evaluation.

(14) "Local noxious weed control agency" means any activated county or regional noxious weed control board created under chapter 17.10 RCW, any weed district created under chapter 17.04 RCW, or any intercounty weed district created under chapter 17.06 RCW.

(15) "Monitoring" means inspecting to gather and record site specific information on which decisions about treatment choices are to be based.

(16) "Objectives" means statements of precise outcomes which can be measured to determine actual accomplishments.

(17) "Principle investigator" means the person under whose direction the noxious weed control project will be carried out such as the county weed control supervisor or county weed control board chairperson.

(18) "Project sponsor" means the county legislative authority of a county with an activated noxious weed control board, a local weed control agency, or a combination of two or more agencies acting through a lead agency, responsible for implementing an approved project.

(19) "Public benefits" means those services, goods, or other benefits, whether tangible or intangible, which accrue to persons other than those on whose property weed control measures pursuant to this chapter are undertaken.

(20) "Public costs" means those costs, whether tangible or intangible, which accrue to persons other than those on whose property weed control measures pursuant to this chapter are undertaken.

(21) "Significant environmental harm" means a reasonable likelihood of more than a moderate adverse impact on environmental quality as set forth in WAC 197-11-794.

(22) "Tangible benefits" means those benefits possessing physical form, whether monetary or nonmonetary,

including but not limited to public health and safety enhancement, environmental enhancement, and cost savings on consumer goods.

(23) "Tangible costs" means those costs possessing physical form, whether monetary or nonmonetary, including but not limited to public health and safety degradation, environmental degradation cost increases on consumer goods.

NEW SECTION

WAC 16-752-115 NOXIOUS WEEDS GRANT PROGRAM—PURPOSE. The purpose of the noxious weeds grant program is to control and prevent noxious weed infestations that pose a potential economic or environmental threat to the state by funding projects with comprehensive control strategies that are well planned, documented, and specific to targeted weed species.

NEW SECTION

WAC 16-752-120 NOXIOUS WEEDS GRANT PROGRAM—FORMS. The director with advice from the state board may prescribe forms for grant applications, project reports, financial reports, contracts or any other activity conducted pursuant to this section, and may require additional information or documentation as needed.

NEW SECTION

WAC 16-752-125 NOXIOUS WEEDS GRANT PROGRAM—WHO MAY APPLY. The legislative authority of any county with an activated county noxious weed control board, or the board of any local weed control agency may apply for noxious weed control grant program funds if such applicant employs adequate administrative personnel to supervise the proposed project for the duration of such project.

NEW SECTION

WAC 16-752-130 NOXIOUS WEEDS GRANT PROGRAM—APPLICATION PROCEDURE. (1) The department shall specify funding cycles, and application and reporting deadlines as necessary, and shall give reasonable notice in writing and shall send by regular mail to the legislative authority of each county with an activated county noxious weed control board and each local weed control agency notice of such cycles and deadlines.

(2) The applicant may request assistance from the state board executive secretary or from the department in completing the application. The state board executive secretary and the department may provide such assistance subject to the availability of staff and funds for this purpose.

(3) The state board may reject or refer back to the applicant those applications which it finds are:

- (a) Insufficiently documented; or
- (b) Incomplete; or
- (c) Inadequate; or
- (d) Postmarked after the deadline.

NEW SECTION

WAC 16-752-135 NOXIOUS WEEDS GRANT PROGRAM—CONTENT OF GRANT APPLICATION. Applications for grants shall include, but not be limited to, the following information:

- (1) The legal name and address of the organization to whom the award should be made;
- (2) The scientific name of targeted noxious weed species;
- (3) The weed classification status;
- (4) The project title and status (new or renewal);
- (5) The amount of money being requested from the state;
- (6) The estimated length of the project and the starting and ending dates;
- (7) The name, business address, and telephone number of the principle investigators;
- (8) The type of performing organization;
- (9) The signature of the principle investigator;
- (10) The abstract, not to exceed one page, which summarizes the main parts of the project;
- (11) Background information which demonstrates the applicant's familiarity with similar projects;
- (12) The objectives of the project;
- (13) The statement of the approach and procedures to be used to accomplish objectives. This section of the proposal shall describe how the applicant plans to approach the problem and indicate the method the applicant will employ to accomplish the objective;
- (14) A description of actual project activity, utilization of personnel, and compilation of data including the following:
 - (a) The precise location of the area affected by the project;
 - (b) The known distribution of the weed species outside the project area;
 - (c) The number of acres encompassed by project area;
 - (d) The number of acres infested by the targeted noxious weed species;
 - (e) The type of land affected in the project area including but not limited to cropland, rangeland, pasture, urban/industrial, transportation rights-of-way, or forest;
 - (f) A designation of the land within the project areas expressed as percent including but not limited to public land, federal land, tribal land, state land, or private land;
 - (g) A description of the agricultural and nonagricultural uses of the project area;
- (15) A projected breakdown of the work to be accomplished on a monthly basis during the funding period;
- (16) A budget consistent with the BARS format which indicates revenues and expenditures by source;
- (17) A quarterly expenditure plan;
- (18) A list of any in-kind contributions committed to the proposed project;
- (19) If the project is sponsored by several agencies, a draft copy of the interlocal cooperation agreement, memorandum of understanding, or other contract showing the relationship and responsibilities of the agencies;

(20) A statement that the project sponsor will enter into a contract with the department for utilization of grant program funds upon approval of the application.

NEW SECTION

WAC 16-752-140 NOXIOUS WEEDS GRANT PROGRAM—APPLICATION EVALUATION—RANKING AND NOTICE OF ACCEPTANCE OR REJECTION OF APPLICATION. (1) The state board shall review, evaluate, assign points to, and rank each application according to the criteria contained in WAC 16-752-145: PROVIDED, That board members who are also officials of the project sponsor shall not be eligible to rank that project sponsor's application.

(2) First priority in funding will be given to class "A" and class "B" noxious weed species: PROVIDED, That the minimal acceptable standards set forth in WAC 16-752-145(2) are met.

(3) Each state board member shall independently evaluate and score each application according to WAC 16-752-145(3), after which the state board shall discuss the applications and review the scores. During such discussions, any state board member may change her or his scores. Following the review, the sum of the individual state weed board member scores for each application shall be determined and divided by the number of members scoring the application. This product shall constitute the board's score for the application. The applications thus scored shall be ranked from highest to lowest score.

(4) The results of the state board's scores and ranking shall be submitted to the director for final scoring, ranking, and acceptance or rejection of the application: PROVIDED, That in scoring applications, the director shall use the same criteria as that used by the state board and shall consult with the state board prior to any change in an applicant's rank.

(5) The department shall give notice to each applicant in writing and send by regular mail notice of the action taken on their application. Such notice shall include the applicant's final score and ranking among the applications considered during that cycle.

NEW SECTION

WAC 16-752-145 NOXIOUS WEEDS GRANT PROGRAM—EVALUATION CRITERIA. (1) The state board shall evaluate each application to determine if it meets all the minimal acceptable standards set forth in subsection (2) of this section. Any application which does not meet these standards shall be rejected and no further consideration shall be given to the application.

- (2) The minimal acceptable standards are as follows:
 - (a) The proposed method of control is technically feasible;
 - (b) The project provides public benefits in excess of public costs;
 - (c) The project will not cause significant environmental harm.
- (3) Any application which meets all of the minimal acceptable standards shall be assigned points by the

state board for each of several specific scientific, technical, economic, and environmental measures established by the state board.

NEW SECTION

WAC 16-752-150 NOXIOUS WEEDS GRANT PROGRAM—LEGAL REQUIREMENTS. (1) Noxious weed control projects carried out pursuant to this chapter shall be subject to all applicable laws and rules including but not limited to the provisions of the State Environmental Policy Act, chapter 43.21C RCW, the Water Pollution Control Act, chapter 90.48 RCW, the Washington Pesticide Control Act, chapter 15.58 RCW, and the Washington Pesticide Application Act, chapter 17.21 RCW.

(2) Decisions by the department to reject noxious weed control grant requests shall be subject to an informal appeals process set forth as follows:

(a) The applicant has ten days from the date a notice of rejection is received from the department to file a request for an informal hearing;

(b) The requests for an informal hearing shall be in writing and shall be sent by certified mail to the state board executive secretary;

(c) Upon receipt of the request for an informal hearing, the state board executive secretary shall immediately notify the state board chairperson of the request;

(d) The state board chairperson shall then appoint a four-person appeal committee which shall consist of one state board member representing the agricultural community, one state board member representing the scientific community, one state board member representing the public interest, and a representative of the department;

(e) On the advice of the state board chairperson, the state board executive secretary shall schedule an informal hearing which shall be held the evening before the regularly scheduled state board meeting;

(f) The state board executive secretary shall notify the applicant and the appeal committee of the date, place, and time of said informal hearing;

(g) Based on the evidence presented by the applicant, the appeal committee shall make a recommendation to the state weed board at the regular meeting to either uphold the department's original decision or request that the state weed board make a recommendation that the grant application in question be approved for funding by the department;

(h) The state board shall vote to either accept or reject the appeal committee recommendation;

(i) The director shall have five working days from receiving a recommendation from the state board to make a final decision;

(j) The department shall notify the state weed board and the applicant of the final decision in writing within five working days.

NEW SECTION

WAC 16-752-155 NOXIOUS WEEDS GRANT PROGRAM—PROJECT MONITORING, EVALUATION AND REPORTING. (1) The principle investigator shall monitor the progress of the project; evaluate the effects of the project; account for all project funds and expenditures; and submit an annual report of its findings to the department and state board.

(2) The department shall conduct financial, compliance, or performance audits as necessary to review project accounting, ensure program compliance, and determine project efficiency and effectiveness.

(3) If the department determines that the project's progress effectiveness or fiscal management is deficient, the department may take one or more of the following actions:

(a) Advise the project sponsor in writing of the deficiency and direct the necessary corrective action;

(b) Suspend the project for a period of not more than sixty days during which time the department shall evaluate the project and determine what, if any, corrective action shall be taken to correct the deficiency: **PROVIDED**, That the department shall notify the project sponsor by certified mail of such suspension and shall forward a copy of such notice to the state board;

(c) Terminate the project: **PROVIDED**, That the department shall consult with the state weed board before termination of a project.

NEW SECTION

WAC 16-752-160 NOXIOUS WEEDS GRANT PROGRAM—BILLING OF EXPENSES. Billable project expenses shall be submitted to the department each quarter accompanied by a completed financial report. All payments shall be contingent on funds appropriated by the legislature and made available for this purpose.

NEW SECTION

WAC 16-752-165 NOXIOUS WEEDS GRANT PROGRAM—RECORDS RETENTION, FINAL REPORT, UNUSED ALLOCATED MONEYS. (1) Grant program records shall be retained by the project sponsor and a copy forwarded to the department and the executive secretary upon project completion or termination.

(2) The project sponsor shall submit a financial statement within thirty days and a final report within one hundred eighty days of the completion or termination of a project to the department and the executive secretary which shall include:

(a) A brief listing of the primary objectives of the project;

(b) The results of the project summarized according to project objectives;

(c) A summary of the public benefits accrued to the state as a result of the project;

(d) An itemized accounting of all grant moneys spent consistent with the BARS format.

(3) Unused allocated grant moneys shall be returned to the state grant fund within thirty days of the termination of a project: PROVIDED, That unused allocated moneys shall be returned no later than thirty days before the end of the biennium.

NEW SECTION

WAC 16-752-170 NOXIOUS WEEDS GRANT PROGRAM—EMERGENCIES. Nothing in this chapter shall prevent the use of available noxious weed grant funds when it is determined by the director with advice of the state board that a noxious weed emergency exists.

NEW SECTION

WAC 16-752-200 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM—PURPOSE. (1) The purpose of the following rules are to provide emergency assistance to local noxious weed control agencies who received state noxious weed control grant funds between July 1, 1986, and June 30, 1987, and whose noxious weed control program would be seriously impaired without such funds.

(2) Definition. "Local agency" means any activated county noxious weed control board, weed district, or intercounty weed district.

NEW SECTION

WAC 16-752-201 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM—ALLOTMENT. One hundred thousand dollars or so much thereof as may be necessary shall be distributed as provided in this chapter.

NEW SECTION

WAC 16-752-202 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM—APPLICATION. (1) The legislative authority of any county with an activated county noxious weed control board, or board of any weed district which received and utilized state grant funds between July 1, 1986, and June 30, 1987, may apply to the director for grant funds pursuant to this chapter.

(2) Each applicant shall employ adequate administrative personnel to supervise an effective weed control program.

(3) No requests shall exceed the total amount of state noxious weed control grant funds requested and utilized by the applicant local agency between July 1, 1986, and June 30, 1987.

(4) Funds allocated under this chapter and not expended by June 30, 1988, shall revert to the department.

NEW SECTION

WAC 16-752-203 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM—REQUIREMENTS. (1) Moneys from the emergency noxious weeds grant fund shall be used solely for the purchase of materials and/or biological control agents by one of the following methods:

(a) Direct purchase by a local agency for application by the agency or for distribution to landowners;

(b) Reimbursement to local agencies of local moneys paid to landowners following the landowner's purchase or application of materials or biological control agents: PROVIDED, That no local agency shall be reimbursed for any weed control activities performed prior to December 15, 1987.

(2) Moneys from the emergency noxious weeds grant fund shall not be used for the application costs of materials or biological control agents whether applied by the local agency, landowner, or commercial applicator.

(3) All activities carried out under the emergency noxious weeds grant program shall comply with Washington Pesticide Application Act, chapter 17.21 RCW, Washington Pesticide Control Act, chapter 15.58 RCW, and any rules promulgated under these chapters. For those local agencies which choose to purchase materials directly for distribution to landowners, this shall include but not be limited to, the local agency obtaining a pesticide dealer license and the supervisor or other representative of the local agency obtaining a pesticide dealer manager license.

(4) Moneys from the emergency noxious weeds grant fund shall be used only on those weeds which are on the noxious weed list, WAC 16-750-010.

(5) All recipients shall employ approved crop/pasture/range management and weed control practices on those lands for which assistance is received.

(6) Each landowner participating in the program shall complete an application and crop/pasture/range management agreement prior to receiving state assistance to control noxious weeds. Upon completion of treatment, each landowner participating in the program shall file a certification of completion of treatment with the local agency. These records shall be maintained by the local agency as part of its permanent state noxious weed control grant program record. Individual local agencies shall be responsible for developing forms to meet this requirement and such forms shall contain substantially the same information as that contained in the department form, "application for assistance to control noxious weeds." A sample of each form used by a local agency in conjunction with this program shall be submitted to the department prior to any payment by the department.

(7) Records.

(a) Those local agencies which purchase materials or biological control agents directly for distribution to landowners shall maintain records on the quantity and value of materials and agents distributed to each landowner.

(b) Those local agencies which reimburse landowners following the landowner's purchase of materials or biological control agents shall retain a copy of the invoice showing the landowner's name, the date of purchase, the material and agents purchased, and the quantity and value of that purchase.

(c) The records specified in (a) and (b) of this subsection shall be maintained by the local agency as part of its permanent state noxious weed control grant program record.

(8) Each local agency shall develop an inspection plan to ensure landowner compliance with the provisions of

this chapter. Such inspection plan shall include inspecting not less than twenty percent of the treated properties in any one year. If after inspection, any landowner shall be found not in compliance with the provisions of this program, the local agency shall immediately notify the department and shall withhold any outstanding payment to this landowner until such payment is approved by the department.

NEW SECTION

WAC 16-752-204 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM—PAYMENT. (1) One signed original copy of the memorandum of understanding between the local agency and the department shall be submitted to the department on or before June 27, 1988, and prior to payment by the department. A second signed original copy shall be maintained as a part of the local agency's permanent noxious weed control grant program record.

(2) Requirements for payment by the department are as follows:

(a) Those local agencies that purchase materials or biological control agents directly shall be required to submit to the department a bill of sale showing the name and address of the vendor, the name of the material, the amount purchased and the cost along with a completed state invoice, Form A-19, prior to payment by the department. Additionally, on or before July 7, 1988, a noxious weed control program report summarizing all program control activities conducted during the term of the agreement shall be completed and submitted to the department.

(b) Those local agencies that reimburse landowners following the purchase or application of materials or biological control agents shall be required to complete a noxious weed control program report summarizing the control activities conducted to date along with each completed state invoice, Form A-19, prior to payment by the department. Additionally, on or before July 7, 1988, a noxious weed control program report summarizing all program control activities conducted during the term of the agreement shall be completed and submitted to the department.

(3) State invoices, Form A-19, submitted for payment shall be received by the department no later than July 7, 1988.

(4) Failure to submit the required forms within the times specified may delay or eliminate payment.

WSR 88-04-045
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Aid to families with dependent children

and continuing general assistance—Eligibility need, amending chapter 388-28 WAC;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the Auditorium, 12th and Franklin, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 74.04.050.

The specific statute these rules are intended to implement is RCW 74.04.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 23, 1988. The meeting site is in a location which is barrier free.

Dated: January 27, 1988
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-28-440 and 388-28-475.

Purpose of the Rule or Rule Change: To clarify and correct WAC 388-28-440 and 388-28-475.

Reason These Rules are Necessary: To bring these WAC sections into compliance with federal requirements at 45 CFR 233.20 (a)(3)(ii).

Statutory Authority: RCW 74.04.050.

Summary of the Rule or Rule Change: WAC 388-28-440 and 388-28-475 are amended to state "income tax refund" may be either a state or federal payment. This change removes lump sums as a resource and states lump sums are considered income.

Person Responsible for Drafting, Implementation and Enforcement of the Rule or Rule Change: Dana Beck, Program Manager, Division of Income Assistance, mailstop OB-31C, phone 753-3317, scan 234-3317.

These rules are necessary as a result of federal law.

AMENDATORY SECTION (Amending Order 2087, filed 3/14/84)

WAC 388-28-440 ACCUMULATION AND DEPLETION OF ALLOWABLE CASH RESOURCE RESERVES. (1) Recipients may spend their cash reserves and rebuild them with succeeding public assistance grants, with funds from other exempt sources, or other income which has been considered in computing financial need. Recipients may place grants in accounts along with cash reserves and then spend out of those accounts during the month.

(2) Cash on hand may exceed the specified limits for a maximum of thirty days if it has already been considered in computing financial need.

(3) For general assistance only, allowable cash reserves may be accumulated from nonrecurrent cash lump-sum sources, including the following:

- (a) Income tax refunds.
- (b) Inheritances.
- (c) Insurance benefits.
- (d) Gifts.
- (e) Prizes and awards.
- (f) Repayment of debts owed the recipient.
- (g) Proceeds from the sale of exempt property.
- (h) Social Security death benefits.
- (i) Indian per capita payments generated by tribally held land or business.

(4) In general assistance only if a lump sum, when added to existing reserves, causes the resources to exceed allowable limits, the excess is newly acquired income to be treated in accordance with WAC 388-28-484.

(5) ~~((Recipients may not use the following types of one-time payments to accumulate resource reserves:~~

~~(a) Earnings accrued over a period of time and received in one payment:~~

~~(b) Payments representing accumulated periodic benefits. Examples are Social Security retirement and disability benefits, railroad retirement benefits, unemployment insurance benefits, and veterans' benefits.~~

~~(6)) If a lump sum is placed in trust for a recipient and is not under his or her control, the following rules apply:~~

~~(a) Funds kept in trust do not affect public assistance need.~~

(b) For general assistance only the trustee may release to the recipient an amount up to the allowable resource limit for the assistance unit less any amount of existing cash and marketable securities as of the date the lump sum was received. Such disbursement, if made within thirty days of the date the lump sum was received, is used to accumulate allowable reserves and does not affect public assistance need. This may be done once for each lump sum placed in trust.

AMENDATORY SECTION (Amending Order 2276, filed 8/30/85)

WAC 388-28-475 USE OF INCOME AND INCOME POTENTIALS. (1) Meaning of income (see definition in WAC 388-22-030). Income ~~((includes)) shall include, but is not limited to,~~ all types of:

- (a) Real or personal property((:));
- (b) Support from parent, stepparent, or other nonrelated adult((:));
- (c) Stocks and bonds((:));
- (d) Wages((:));
- (e) Interest in an estate((:));
- (f) Income from farming((~~at~~));
- (g) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.((:));
- (h) Gifts and prizes in the form of cash or marketable securities((: etc. its value is used to compute financial need in accordance with the policies herein)); and

(i) For AFDC lump sum payments. For general assistance, only that amount of the lump sum in excess of the resource limits is income.

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through 388-28-420 regarding ownership and use of resources also govern the ownership and use of income and income potentials.

(3) Resources and income. WAC 388-28-400 through 388-28-457 contain policies and procedures for considering and using nonexempt resource values to determine financial need. WAC 388-28-475 through 388-28-600 covers policies and procedures used in computing income to determine financial need. The total nonexempt resource values and nonexempt net income values are compared with the appropriate payment level plus authorized additional requirements to determine financial need and, if it exists, the amount of the grant for which the applicant is eligible.

WSR 88-04-046
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning intentional program violations administrative disqualification hearings, amending WAC 388-49-660;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the Auditorium, 12th and Franklin, OB2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 23, 1988. The meeting site is in a location which is barrier free.

Dated: January 27, 1988
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-49-660.

Purpose of this Rule: To establish the conditions under which the department will refer for disqualification hearings persons suspected of committing intentional program violation.

Reasons this Rule is Necessary: To comply with federal requirements and to increase program integrity and administrative efficiency.

Statutory Authority: RCW 74.04.510.

Summary of the Rule or Rule Change: The rule contains the criteria for referring suspected cases of intentional program violation for an administrative disqualification hearing. The state will not be administering the program pursuant to law if (1)(c), (2)(a) and (b), and (3)(a) and (b) are not adopted. Program integrity and

administrative efficiency will suffer if (1)(a) and (b) are not adopted.

Name of Initiator: Joan Wirth, Community Services Program Manager, Division of Income Assistance.

Person or Organization (if other than DSHS) who Proposed These Rules: N/A.

These rules are in part necessary as a result of federal requirements.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-660 INTENTIONAL PROGRAM VIOLATIONS—ADMINISTRATIVE DISQUALIFICATION HEARINGS. Administrative disqualification hearings are governed by chapters 10-08 and 388-08 WAC and WAC 388-49-660.

(1) The department shall refer an individual who has no prior intentional program violation but who is suspected of committing an intentional program violation for an administrative disqualification hearing when:

(a) The overissuance caused by the suspected intentional program violation is two hundred and fifty dollars or more; or

(b) The sum of the overissuance caused by the suspected intentional program violation and all inadvertent household error overissuances that occurred in the two years immediately preceding the date of discovery of the suspected intentional program violation is two hundred and fifty dollars or more; and

(c) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) Resides outside Washington but within one hour's reasonable drive to a Community Services Office; and

(d) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(2) The department shall refer an individual who has committed one or more intentional program violations and who is suspected of committing another intentional program violation when:

(a) The act of suspected intentional program violation occurred:

(i) After the department mailed the administrative decision disqualifying the individual for the most recent intentional program violation;

or

(ii) After entry of the order in criminal proceedings that caused the individual to be disqualified for the most recent intentional program violation; and

(b) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) Resides outside Washington but within one hour's reasonable drive to a Community Services Office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(3) The department shall:

(a) Give at least thirty days advance notice of the hearing date to the person or persons alleged to have committed an intentional program violation as defined in WAC 388-49-020, and

(b) Obtain proof of receipt of the notice.

((2)) (4) The notice of hearing shall comply with WAC 10-08-040 and contain the following information:

(a) The allegations;

(b) A summary of the department's evidence;

(c) A statement of how and where the evidence can be examined;

(d) A statement that if the person or a representative fails without good cause to appear at the hearing, a decision will be made based solely on the evidence and argument the department presents; and

(e) A statement that the person has ten days from the date of the scheduled hearing:

(i) To file a request with the administrative law judge showing good cause for failure to appear, and

(ii) Seeking a new hearing; and

(f) A statement that if a telephone hearing is scheduled, the person may request an in-person hearing by filing a request with the administrative law judge at least one week prior to the date of the hearing.

((3)) (5) The person or a representative shall have the right to one continuance of up to thirty days provided a request is filed at least ten days prior to the hearing date.

((4)) (6) The department shall conduct the hearing without the person or a representative if they fail to appear at the hearing without good cause.

(a) The decision shall be based solely on the evidence and argument the department presents.

(b) The person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear, and

(ii) Requesting the hearing be reinstated.

~~((5))~~ (7) The administrative law judge shall grant a request to change a scheduled telephone hearing to an in-person hearing if the person or representative:

(a) Files the request at least one week before the date the hearing is scheduled, or

(b) Files the request one week or less before the date the hearing is scheduled if the person shows good cause for having the hearing conducted in person.

~~((6))~~ (8) The administrative law judge shall advise the person or representative they may refuse to answer questions during the hearing.

~~((7))~~ (9) The department shall bear the burden of proof for demonstrating intentional program violation with clear and convincing evidence.

~~((8))~~ (10) The department shall follow the decision-rendering in WAC 388-08-406.

~~((9))~~ (11) The department shall make a final decision within ninety days of the date the individual receives the notice of hearing.

~~((10))~~ (12) The department may combine an overissuance fair hearing and an administrative disqualification hearing into a single hearing when the facts alleged for each arise out of the same or related circumstances. When combined:

(a) The hearing procedures and time frames shall be those applicable to an administrative disqualification hearing,

(b) The household loses its right to a subsequent fair hearing on the overissuance, and

(c) The department shall give prior notice to:

(i) The person or persons alleged to have committed the intentional program violation, and

(ii) The person or persons alleged to be liable for the overissuance.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 88-04-047

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health)

[Order 2591—Filed January 29, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 248-19-328 Nursing home concurrent review cycles.
Amd WAC 248-19-373 Determination of nursing home bed needs.

This action is taken pursuant to Notice No. WSR 87-24-080 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.38.115 and 70.38.135 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2487, filed 5/1/87)

WAC 248-19-328 NURSING HOME CONCURRENT REVIEW CYCLES. (1) The ~~((following undertakings))~~ department shall ~~((be reviewed))~~ review concurrently ~~((under))~~ during review cycles established under subsection ~~((4)(c))~~ (6) of this section the following:

(a) New nursing homes,
(b) Nursing home bed additions, or
(c) Redistribution of beds from the following facility or service categories to skilled nursing care beds:

(i) Acute care,
(ii) Boarding home care, or
(iii) Intermediate care for the mentally retarded, or
(d) Redistribution of beds from the following facility or service categories to intermediate care facility beds:

(i) Acute care, or
(ii) Boarding home care.

(2) Undertakings of type A continuing care retirement communities ~~((CCRC))~~ (CCRCs), as defined in subsection (3)(b)(i) of this section ~~((meeting))~~ which do not propose or are not operating within a transition period as defined in subsection (3)(d) of this section during development, and which meet the following conditions, shall be reviewed under the regular review process per WAC 248-19-330(-):

(a) The number of nursing home beds requested in a single undertaking shall not exceed sixty, and

(b) After project completion, the number of nursing home beds, including those with which the CCRC contracts, shall not exceed one bed for each four independent living units within the CCRC. In computing this ratio, only independent living units of the CCRC already existing, and/or scheduled for completion at the same time as the proposed nursing home beds under the same financial feasibility plan, shall be counted.

(3) For purposes of this section, the following definitions shall be used:

(a) "Continuing care contract" means a contract to provide a person, for the duration of the person's life or for a term in excess of one year, shelter along with nursing, medical, health-related or personal care services, in exchange for payment of an entrance fee, periodic charges, or both. Continuing care contracts include, but are not limited to, life care agreements and mutually terminable contracts. The living space and services under a continuing care contract may or may not be provided at the same location.

(b) "Continuing care retirement community (CCRC)" means any of a variety of entities providing shelter and services based on continuing care contracts with its enrollees. CCRCs are categorized as follows:

(i) "Type A CCRC" means a CCRC ~~((providing))~~ meeting the following requirements:

(A) Maintains for a period in excess of one year a CCRC contract with its enrollees or residents ~~((with))~~ for a contractually guaranteed range of services from

independent living through nursing home care, including some form of assistance with activities of daily living ~~((and unrestricted nursing care without any limitations unrelated to medical need. With limited exceptions related to start-up periods, a type A CCRC))~~;

(B) Continues a contract if an enrollee or resident is no longer able to pay for services;

(C) Offers services only to contractual enrollees ~~((: The enrollee's financial responsibility is stated in the contract, with the CCRC responsible for remaining costs. With the exception of insurance purchased by the CCRC or its enrollees no third party, including after a limited transition or start-up period, the))~~ with limited exception related to use of transition periods; and

(D) Prohibits Medicaid program ~~((, is liable))~~ liability for costs of care even if the member depletes his or her personal resources.

(ii) "Type B CCRC" means a CCRC ~~((not))~~ meeting ~~((at))~~ the following requirements ~~((of type A CCRCs, but does provide nursing home care or other facilities or services. A typical example would be a CCRC operating an on-site nursing home, but contractually guarantees only a limited number of days of nursing home care, after which additional payment is required of the enrollee. Many type B CCRCs have nursing home units maintaining))~~:

(A) Maintains for a period in excess of one year a CCRC contract with its enrollees or residents,

(B) May provide a range of services beyond nursing home care,

(C) May terminate a contract if an enrollee or resident is unable to pay for services,

(D) May admit patients to the nursing home who are not CCRC enrollees or residents, and

(E) May maintain Medicaid contracts and/or ~~((admit patients who are not CCRC enrollees))~~ other requirements for third-party payment.

(c) "Enrollee" of a CCRC means an individual who has signed a continuing care contract with ~~((the))~~ a CCRC.

(d) "Transition period" means a period of time, not exceeding five years, between the date an enrollee becomes the first resident of a type A CCRC and the date it fully meets the requirements of a type A CCRC as contained in the current state health plan.

(4) The annual nursing home concurrent review consists of three cycles:

(a) One of the three annual cycles is reserved for the review of competing applications submitted by or on behalf of:

(i) Type A CCRCs applying for nursing home beds available from the ~~((one hundred and twenty-bed))~~ statewide CCRC ~~((pool))~~ allotment as described in WAC 248-19-373(8).

(ii) Type A CCRCs which propose or are operating within a transition period during development and are not applying for nursing home beds available from any nursing home planning area, and

(iii) Type B CCRCs applying for nursing home beds available from the ~~((one hundred and twenty-bed))~~ statewide ~~((pool))~~ CCRC allotment as described in WAC 248-19-373(8).

(b) Two other cycles are for review of competing applications for nursing home beds needed in half of the ~~((counties or))~~ nursing home planning areas.

(5) The department shall use the following nursing home concurrent review application filing procedures:

(a) Each applicant shall:

(i) File the required number of copies of each application ~~((with))~~ as specified in the application information requirements, and

(ii) Mail or deliver the application so that the department receives it no later than the last day for initial application receipt as prescribed in the schedule for ~~((each of the))~~ that concurrent review ~~((cycles))~~ cycle.

(b) The department shall ~~((not))~~:

(i) Only review ~~((any application))~~ applications for which a letter of intent as described in WAC 248-19-270 was ~~((not filed))~~ mailed or delivered so that the department receives it at least thirty days before the last day for ~~((submittal))~~ receipt of initial applications as indicated below,

(ii) Begin screening all applications received during the initial application period on the first working day following the close of that period, and

(iii) Return to the applicant any application received after the last day of the initial application receipt period.

~~((c) The department shall begin screening all applications received during the initial application submittal period on the first working day following the close of the submittal period.~~

~~(d) The department shall return to the applicant any application filed after the last day of the initial application submittal period.))~~

(6) The schedules for the three annual nursing home bed concurrent review cycles shall be as follows:

(a) For ~~((competing))~~ those applications ~~((identified))~~ described in subsection (4)(a) of this section, the concurrent review cycle schedule shall be as follows:

(i) Period for ~~((submittal))~~ receipt of letters of intent shall begin on the first working day of June and end on the first working day of July,

(ii) ~~((End of initial application submittal))~~ Period ~~((is))~~ for receipt of initial applications shall begin on the first working day of July and end on the first working day of August,

(iii) End of initial application completeness screening period is the first working day of September,

(iv) End of final application ~~((submittal))~~ receipt period is the first working day of October, and

(v) Beginning of concurrent review period is October 16 or first working day after that date.

(b) For competing applications submitted for nursing home beds available for the Chelan/Douglas, Clallam, Clark/Skamania, Cowlitz, ~~((Douglas,))~~ Grant, Grays Harbor, Island excluding Camano, Jefferson, King, Kittitas, Klickitat, Okanogan, Pacific, San Juan, Skagit, Spokane, and Yakima ~~((counties or))~~ nursing home planning areas, the concurrent review cycle schedule shall be as follows:

(i) Period for ~~((submittal))~~ receipt of letters of intent shall begin on the first working day of July and end on the first working day of August,

(ii) ~~((End of initial application submittal))~~ Period ~~((is))~~ for receipt of initial applications shall begin on the first working day of August and end on the first working day of September,

(iii) End of initial application completeness screening period is the first working day of October,

(iv) End of final application ~~((submittal))~~ receipt period is the first working day of November, and

(v) Beginning of concurrent review period is November 16 or first working day after that date.

(c) For competing applications submitted for nursing home beds available ~~((from))~~ for the Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Kitsap, Lewis, Lincoln, Mason, Pend Oreille, Pierce, Snohomish including Camano, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, and Whitman ~~((counties or))~~ nursing home planning areas, the concurrent review cycle schedule shall be as follows:

(i) Period for ~~((submittal))~~ receipt of letters of intent shall begin on the first working day of August and end on the first working day of September,

(ii) ~~((End of initial application submittal))~~ Period ~~((is))~~ for receipt of initial applications shall begin on the first working day of September and end on the first working day of October,

(iii) End of initial application completeness screening period is the first working day of November,

(iv) End of final application ~~((submittal))~~ receipt period is the first working day of December, and

(v) Beginning of concurrent review period is December 16 or first working day after that date.

AMENDATORY SECTION (Amending Order 2386, filed 6/2/86)

WAC 248-19-373 DETERMINATION OF NURSING HOME BED NEEDS. (1) The department shall use the following rules ~~((are adopted for use))~~ in making decisions on certificate of need applications involving ~~((nursing home beds submitted for review under the provisions of RCW 70.38.105-))~~:

(a) ~~((With the assistance of a work group, the state health coordinating council developed a method for determining future nursing home bed needs with the intention of incorporating that method as an amendment to the 1982 state health plan. The secretary of the department reviewed the method and submitted it to the governor for adoption as an amendment to the state health plan. The governor adopted the method as part of an amendment of the state health plan on March 27, 1984. See RCW 70.38.045 and RCW 70.38.065.))~~ New nursing homes,

(b) ~~((The nursing home bed need projections in subsection (3)(a) of this section shall be used to interpret the certificate of need review criteria in RCW 70.38.115 (2)(b) and WAC 248-19-370))~~ Nursing home bed additions,

(c) Redistribution of beds from any of the following facility and service categories to skilled nursing care beds:

(i) Acute care,

(ii) Boarding home care, or

(iii) Intermediate care for the mentally retarded;

(d) Redistribution of beds from any of the following facility and service categories to intermediate care facility beds:

- (i) Acute care, or
- (ii) Boarding home care; and
- (e) Relocation of nursing home beds from one nursing home planning area to another nursing home planning area.

(2) The secretary finds:

(a) That ~~((in developing)) the ((amendment to the 1982))~~ nursing home bed projection method contained in the state health plan ((the state health coordinating council sought and received the assistance of a work group consisting of representatives from a wide variety of groups interested in)) is the appropriate means for determining nursing home bed needs in this state((-); and

(b) That the ~~((work group consisted of representatives from the following: State health coordinating council; Puget Sound health systems agency; Washington association of homes for the aging; Washington state health facilities association; united nursing home association; area agency on aging; nursing home ombudsman; state nursing home advisory council; senior citizens lobby; state council on aging; the department's bureau of aging and adult services, bureau of nursing home affairs, and regional offices; and the house committee on social and health services))~~ state health plan nursing home bed need method and the resultant projections as contained in subsections (4), (5), (7), and (8) of this section are consistent with RCW 70.38.045 and RCW 70.38.065.

~~((c) That the following assumptions which were incorporated in the amendment regarding the bed need projection method are the appropriate policy considerations for projecting nursing home bed needs:~~

~~(i) Nursing home bed need projections should reflect variations in nursing home use by different age groups of the population.~~

~~(ii) Nursing home beds should ordinarily be located reasonably close to the people they serve.~~

~~(iii) Equity and the availability in use of nursing home beds within the state should be increased by reducing the wide variation in nursing home use rates within age groups among areas of the state.~~

~~(iv) Areas of the state that are underbedded, adequately bedded, and overbedded should be identified and treated differently in the bed need projection process.~~

~~(v) The overall supply of beds in the state should represent a reasonable and appropriate state nursing home bed to elderly population ratio.~~

~~(vi) Most current nursing home use in the state reflects an appropriate need for formal services which should be met by nursing home beds or other services in long-term care continuum.~~

~~(vii) To be responsive to unique local circumstances, the nursing home bed need projection process should include local discretion in defining nursing home planning areas and bed allocations.~~

~~(d) That the amendment to the 1982 state health plan established a 1990 target state nursing home bed to elderly population ratio (see subsection (2)(c)(v) of this~~

~~section) of 53.7 beds per one thousand persons aged sixty-five or older. Taken into account in establishing this ratio were the following:~~

~~(i) The national bed ratio and the bed ratios of other states judged to have reasonable and progressive long-term care policies, and~~

~~(ii) State policy goals for the allocation of scarce resources between nursing home beds and other institutional and community-based services in the long-term care continuum, and~~

~~(iii) The effects on nursing home bed needs of new health system developments, such as hospital diagnostic related group (DRG) reimbursement, and~~

~~(iv) Progress being made in developing other long-term care services for the population at risk of nursing home placement.~~

~~(e) That nursing home bed need projections derived from the state health plan bed need methodology should not be exceeded in decisions on applications for certificates of need.))~~

(3) ~~((The following are the 1987 projections of total nursing home beds needed in each county as derived from))~~ Consistent with the general provisions of the state health plan, the department shall apply the following nursing home bed need ((projection methodology: These projections will remain in effect until updated. The next update is scheduled for the last half of 1986. The projections do not reflect necessary reductions for current licensed nursing home beds (excluding nursing home beds used for IMR), beds in hospitals used for long-term care, and the number of nursing home beds approved by certificate of need, but not yet licensed. The projections less these reductions equal additional beds needed)) policies:

(a)	((Clallam	470
	Island	215
	Jefferson	129
	King	8,867
	Kitsap	1,151
	Pierce	3,105
	San Juan	74
	Skagit	585
	Snohomish	2,270
	Whatcom	1,081
	Clark	1,178
	Cowlitz	585
	Grays Harbor	667
	Klickitat	100
	Lewis	493
	Mason	195
	Pacific	196
	Thurston	719
	Wahkiakum	53
	Benton	396
	Chelan	446
	Douglas	101
	Franklin	138
	Grant	230
	Kittitas	227
	Okanogan	275
	Yakima	1,436

Adams	112
Asotin	233
Columbia	71
Ferry	27
Garfield	40
Lincoln	101
Pend Oreille	56
Spokane	2,667
Stevens	176
Walla Walla	497
Whitman	236)

The department shall use the state health plan nursing home bed projection method to calculate nursing home bed need projections for the three-year period ending in 1990 and for at least one subsequent longer range period.

(b) ((These bed need projections include the allocation plans of the applicable regional health council, as provided for in the nursing home)) The department and the state health coordinating council shall review the bed need projection method during the last half of 1989, unless it is reviewed sooner under the provisions of subsection (c) of this section. ((Where there is no regional health council allocation plan, the nonallocated projection is shown.¹))

(c) ((Certificates of need issued by the department shall approve no more than the number of additional beds indicated as needed for a given county by the projection method as listed in subsection (3)(a) of this section unless the department after consultation with the appropriate health systems agency finds additional beds are needed to further the projection method policy that nursing home beds should ordinarily be located reasonably close to the people they serve. When the department approves more beds than are projected as needed under this rule, the approval shall include a written explanation:

Note:

¹Step 5 of the state health plan nursing home bed need projection methodology concerns the determination of the appropriate number of nursing home beds in each county. The method states the regional health councils are responsible for the development of an allocation plan. The regional health councils may group counties into multiple county planning areas and allocate beds or reallocate beds among counties based on the planning areas. The allocation plan shall be developed separate from the review of individual certificate of need applications))

The department and the state health coordinating council shall revise the bed projection method if either determines that significant nursing home bed supply problems have developed.

(d) The department and the state health coordinating council shall not consider hospital swing beds, which are available to provide either acute care or nursing home care, as nursing home beds for the purpose of determining nursing home bed needs or available nursing home bed supply.

(e) The department shall use the following nursing home planning areas in its nursing home bed need projections:

- (i) Chelan/Douglas counties,
- (ii) Clark/Skamania counties,
- (iii) Snohomish county and Camano Island,
- (iv) Island county without Camano Island, and
- (v) The other thirty-three individual counties in the state.

(4) The following are the unallocated baseline nursing home bed need projections for 1990 listed by health service area and nursing home planning area.

(a) Puget Sound Health Service Area

Clallam	470
Island excluding Camano Island	221
Jefferson	128
King	9,023
Kitsap	1,099
Pierce	3,158
San Juan	75
Skagit	588
Snohomish including Camano Island	2,275
Whatcom	1,070

(b) Southwest Washington Health Service Area

Clark/Skamania	1,151
Cowlitz	581
Grays Harbor	663
Klickitat	108
Lewis	509
Mason	235
Pacific	195
Thurston	849
Wahkiakum	53

(c) Central Washington Health Service Area

Benton	390
Chelan/Douglas	582
Franklin	150
Grant	252
Kittitas	227
Okanogan	284
Yakima	1,440

(d) Eastern Washington Health Service Area

Adams	112
Asotin	209
Columbia	66
Ferry	25
Garfield	40
Lincoln	95
Pend Oreille	55
Spokane	2,782
Stevens	177
Walla Walla	500
Whitman	236

(5) The department shall calculate the total net nursing home beds needed within each nursing home planning area by changing the 1990 baseline nursing home

bed need projection for each nursing home planning area, as follows:

(a) Subtracting from the 1990 baseline nursing home bed need projection, the total number of licensed nursing home beds within the nursing home planning area, excluding:

(i) Nursing home beds used as intermediate care for the mentally retarded (IMR); and

(ii) Only when the department amends the baseline nursing home bed projections in subsection (4) of this section, nursing home beds in type A CCRCs.

(b) Adding the total number of nursing home beds which the department has delicensed since the last recomputation of the total number of licensed nursing home beds within the nursing home planning area;

(c) Subtracting the total number of hospital beds, excluding designated swing beds, within the nursing home planning area which are used for long-term care from the 1990 baseline nursing home bed need projection;

(d) Subtracting the total number of nursing home beds approved by certificate of need, but not yet licensed from the 1990 baseline nursing home bed need projection; and

(e) Adding nursing home beds being reallocated from another nursing home planning area or areas to the 1990 baseline nursing home bed need projection; and

(f) Subtracting nursing home beds being reallocated to another nursing home planning area or areas from the 1990 baseline nursing home bed need projection.

(6) Under the state health plan nursing home bed need method, area agencies on aging may submit reallocation plans to the department which:

(a) Reallocate net needed nursing home beds among two or more nursing home planning areas,

(b) Document the following:

(i) That all area agencies representing the geographic areas involved support each proposed reallocation, and

(ii) That the reallocation plan is consistent with the requirements contained in the state health plan, and

(c) Receive approval from the department's aging and adult services administration.

(7) Under the state health plan, the department shall limit to three hundred the total number of nursing home beds approved for all type A continuing care retirement communities which propose or are operating within a transition period as defined in WAC 248-19-328(3).

(a) These three hundred beds available for type A continuing care retirement communities shall be in addition to the net nursing home beds needed in all of the nursing home planning areas and the statewide CCRC allotment of described in subsection (8) of this section.

(b) All nursing home beds approved for type A continuing care retirement communities which propose or are operating within a transition period shall be counted as beds within this three hundred bed limitation unless and until the continuing care retirement community fully complies with all provisions of the state health plan type A continuing care retirement community performance standards.

(8) Under the state health plan, there is a statewide allotment of one hundred and twenty beds which shall be available only for applications sponsored by or on behalf

of continuing care retirement communities as defined in WAC 248-19-328 (3)(b).

(9) The total statewide 1990 baseline nursing home bed need, including nursing home planning areas needs under subsection (4) of this section and the special continuing care retirement community bed allotment in subsection (8) of this section, is thirty thousand one hundred ninety-three.

(10) The department shall apply the following procedures in correcting the number of total net nursing home beds needed within a nursing home planning area as the result of changes in that area's bed supply as defined in subsection (5) of this section.

(a) When the number of licensed nursing home beds increases without a corresponding decrease in the number of certificate of need approved, but not yet licensed beds, the department shall reduce the number of net needed nursing home beds as defined in subsection (5) of this section.

(i) When this reduction can be made prior to the date of commencement of review for the concurrent review cycle, the department shall:

(A) Inform in writing, all persons from whom the department has received an application and/or a valid letter of intent, and

(B) Explain to each person from whom the department has received an application the procedures for withdrawing or amending a certificate of need application.

(ii) When this reduction cannot be made prior to the date of commencement of review for the concurrent review cycle, the department shall not consider the correction in reaching a decision on each affected application.

(b) When the number of certificate of need approved, but not yet licensed, beds increases, the department shall reduce the number of net needed nursing home beds as defined in subsection (5) of this section.

(i) When this reduction can be made prior to the date of commencement of review for the concurrent review cycle, the department shall:

(A) Inform in writing, all persons from whom the department has received an application and/or a valid letter of intent, and

(B) Explain to each person from whom the department has received an application the procedures for withdrawing or amending a certificate of need application.

(ii) When this reduction cannot be made prior to the date of commencement of review for the concurrent review cycle, the department shall not consider the correction in reaching a decision on each affected application.

(c) When the number of licensed nursing home beds or certificate of need approved, but not yet licensed beds, decreases, the department shall increase the number of net needed nursing home beds as defined in subsection (5) of this section.

(i) When this increase can be made prior to the department's initial decision on each affected application, the department shall:

(A) Notify all affected applicants in writing, and

(B) Explain to each affected applicant the procedures for amending a certificate of need application.

(ii) When this increase cannot be made prior to the date of the department's initial decisions on the affected applications, the department shall include the increase in the number of net needed nursing home beds in any subsequent decision on each affected application or the next concurrent review cycle for that nursing home planning area, whichever occurs first.

(11) The department shall not issue certificates of need approving more than the number of additional beds indicated as, either available under subsections (7) or (8) of this section, or as needed for a given nursing home planning area, unless:

(a) The department has consulted with the appropriate regional health council, if any, and

(b) The department finds that such additional beds are needed to further the projection method policy that nursing home beds should ordinarily be located reasonably close to the people they serve, and

(c) The department explains such approval in writing.

WSR 88-04-048

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2594—Filed January 29, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to inpatient hospital care, amending WAC 388-86-050 and new WAC 388-86-051; Conditions of payment—Hospital care, amending WAC 388-87-013 and 388-87-070.

This action is taken pursuant to Notice No. WSR 87-24-077 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 29, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2397, filed 7/2/86)

WAC 388-86-050 INPATIENT HOSPITAL CARE. (1) The department ~~((with))~~ shall provide hospitalization for recipients under age sixty-five and for recipients sixty-five and over who have exhausted Medicare benefits. With exceptions and limitations in WAC 388-86-051 the recipient ~~((with))~~ shall have free choice of hospitalization.

(2) Prior approval is required for nonemergent hospital admissions.

(3) The division of medical assistance ~~((with))~~ shall certify hospital admission, length of stay and/or services for all recipients.

(4) Department authorization for inpatient hospital care, in hospitals excepted from the diagnosis-related group based pricing system, for eligible individuals shall be limited to the number of days established at the 75th percentile in the 1983 edition of the publication Length of Stay in PAS Hospitals, by Diagnosis United States Western Region, unless prior contractual arrangements are made by the department for a specified length of stay. When hospitalization of a recipient exceeds the number of days as limited by this subsection, the hospital shall submit to the local medical consultant a request with adequate justification and signed by the attending physician within sixty days of final service for approval of the extension.

(a) Eligible recipients are covered for involuntary admissions for acute psychiatric conditions up to a maximum of seventeen days under the Involuntary Treatment Act in hospitals certified as evaluation and treatment facilities. If an involuntarily committed recipient reverts to voluntary status, PAS days are computed from day of admission and applied to any period exceeding the mandatory seventeen days. If PAS days are less than seventeen, the maximum of seventeen days will prevail.

~~((No payment will be made))~~ The department shall not pay for care in a private psychiatric hospital that has not been certified under Title XVIII. Authorization for admission of an eligible individual to a private psychiatric hospital shall be under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

(c) The department shall make Medicaid payment ~~((will be made))~~ for care in a state mental institution for categorically needy and medically needy individuals under age twenty-one and age sixty-five and older.

(d) The department shall make Medicaid payments ~~((will be made))~~ for care in an approved psychiatric facility for categorically needy and medically needy individuals under age twenty-one.

(5) The department shall provide for hospitalization for the treatment of acute and chronic renal failure ~~((shall be provided))~~, except that the department shall pay only deductibles and coinsurance for a recipient who is a Medicare beneficiary and who is hospitalized for such treatment or for kidney transplant.

(6) The department shall not pay for the days of Friday or Saturday if nonemergent hospital admissions ~~((shall not be))~~ are made on Friday or Saturday for scheduled surgery on Monday. ~~((The attending physician may admit the recipient on Sunday to accomplish the necessary preoperative work-up.))~~

(7) ~~((Approval for))~~ The department shall approve hospitalization of a recipient ~~((shall be))~~ based on the recipient's need for semi-private accommodations and ~~((reimbursement made))~~ shall reimburse at the multiple occupancy rate, regardless of accommodations provided by the hospital. The department shall establish special rates ~~((may be established))~~ for recipients covered by

the Involuntary Treatment Act. Semi-private accommodations (~~staff~~) mean not less than two nor more than a four-bed room.

(8) The department shall cover(~~s~~) medically necessary services provided in a hospital in connection with the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization (~~in connection with the provision of such services~~). Services covered under this subsection (~~must~~) shall be furnished under the direction of a physician or dentist.

NEW SECTION

WAC 388-86-051 SELECTIVE CONTRACTING PROGRAM. The department shall provide non-emergency inpatient hospital services to Medicaid recipients in selective contracting areas through the award of selective hospital contracts.

(1) Selective contracting areas (SCA) are those areas in which hospitals participate in competitive bidding for hospital contracts. The department shall base SCAs on a historical patterns of hospital use by Medicaid patients.

(2) A contracting hospital is a hospital located in a SCA that is awarded a selective hospital contract with the department to provide inpatient hospital services for Medicaid recipients.

(3) A noncontracting hospital is a hospital that is located in a SCA, is not designated as exempt, and does not have a selective contract with the department.

(4) An exempt hospital is a hospital that is either not located in a SCA or is exempted by the department. The department shall classify the following as exempt hospitals:

(a) Hospitals in a SCA that are designated by the department as "remote" hospitals. Hospitals designated as remote shall meet the following criteria:

- (i) Be a hospital located more than ten miles from the nearest hospital in the SCA; and
- (ii) Have fewer than seventy-five beds; and
- (iii) Have had fewer than five hundred Medicaid inpatient admissions during the study sample period.

(b) HMO hospitals providing inpatient services to HMO enrollees only,

(c) Children's hospitals,

(d) State psychiatric hospitals,

(e) Out-of-state hospitals in nonborder areas, and out-of-state hospitals in border areas not designated as SCAs,

(f) The Fred Hutchinson Cancer Research Center (bone marrow transplant beds), and

(g) Separate (freestanding) psychiatric facilities including Fairfax Hospital in Kirkland, Washington; Mid-Columbia Hospital in Richland, Washington; and Pine Crest Hospital in Couer d'Alene, Idaho.

(5) Medicaid recipients receiving inpatient services in a SCA shall be limited to the contracting or exempt hospital(s) in the SCA for elective (nonemergent) inpatient hospital services. The following exclusions shall apply:

(a) The department shall pay for inpatient hospital services, provided by any hospital, for treatment of emergency medical conditions. An emergency medical

condition is a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

(b) The department shall pay for inpatient services provided by any hospital to Medicaid recipients determined to reside an excessive travel distance from a contracting hospital.

(i) The recipient is deemed to have an excessive travel burden if the travel distance from a recipient's residence to the nearest contracting hospital exceeds the recipient's county travel distance standard as defined by the department.

(ii) If a recipient must travel outside his/her SCA to obtain inpatient services not available within the community (such as treatment from a tertiary hospital), the recipient shall obtain such services from a contracting hospital, unless the services can be obtained from a noncontracting hospital that is located a closer distance to the recipient's residence than a contracting hospital.

(c) The department shall reimburse all applicable Medicare deductible and coinsurance amounts for inpatient services at any hospital for Medicaid recipients who are also beneficiaries of Medicare Part A.

AMENDATORY SECTION (Amending Order 1937, filed 1/12/83)

WAC 388-87-013 CONDITIONS OF PAYMENT—HOSPITAL CARE. (1) All hospital admissions (~~require local medical consultant approval~~) shall be subject to department review and approval. Prior department approval (~~of the local medical consultant~~) is required for all nonemergent hospital admissions.

(2) Neither the department nor the recipient (~~will~~) shall be responsible for payment for:

(a) Additional days of hospitalization in the case of a hospitalized recipient when:

(i) The PAS limitations have been exceeded, and

(ii) The provider has not obtained (~~local medical consultant~~) department approval unless prior contractual arrangements are made by the department for a specified length of stay, or

(b) Elective (nonemergent) inpatient services received by a Medicaid recipient from a noncontracting hospital in a SCA unless:

(i) Exclusions in WAC 388-86-051 apply, or

(ii) The recipient makes contractual arrangements with the hospital at least seventy-two hours in advance of the hospital admission making the recipient responsible for payment.

(3) A beneficiary of Title XVIII Medicare who is not in a state institution shall use his nonrenewable lifetime hospitalization reserve of sixty days before the department will make payment for hospitalization (~~will be made~~) from Title XIX funds.

AMENDATORY SECTION (Amending Order 2539, filed 9/17/87)

WAC 388-87-070 PAYMENT—HOSPITAL INPATIENT SERVICES. (1) The department ~~((with))~~ shall pay hospital costs of ~~((eligible persons))~~ categorically needy, medically needy, medically indigent and medical care services recipients as defined in WAC 388-80-005, as now or hereafter amended, who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020, as now or hereafter amended.

~~((Recipients must have been approved as financially and medically eligible for hospitalization. They are:~~

- ~~(a) Categorically needy recipients;~~
- ~~(b) Limited casualty program recipients;~~
- ~~(i) Medically needy recipients;~~
- ~~(ii) Medically indigent recipients;~~
- ~~(c) Recipients of medical care services:))~~

~~((Except for excluded services:))~~ The department shall determine payment for hospital inpatient services ~~((is determined))~~ according to a diagnosis related group (DRG) based formula pricing system established by the department, except for hospitals participating in the selective contracting program as prescribed in WAC 388-86-051 and services excluded from DRG-based reimbursement as prescribed in subsection (4) of this section. The department shall base formula price payments on the methodology prescribed in the department's State Plan under Title XIX of the Social Security Act, Methods and Standards Used for Establishing Payment Rates for Hospital Inpatient Services (hereafter referred to as the Title XIX State Plan). ~~((Payment amounts are based upon historical average costs per discharge, adjusted for case mix and indexed to the payment period. Payment for cases meeting the criteria of cost outlier is at eighty percent of the rates determined according to the method in subsection (4)(a) of this section:))~~

(3) The rate structure of selective contracting hospitals for inpatient hospital services is identified in Appendix B of such selective contracts. The rate shall be inclusive of all inpatient services provided either directly or indirectly by the contractor and constitutes the department's maximum financial obligation under the contract.

(4) Certain services are excluded from the diagnosis related group based ~~((pricing))~~ reimbursement system. These exclusions shall include:

~~(a) Rehabilitation((, pain treatment, psychiatric, alcoholism treatment and detoxification, and long term hospital level care services.~~

~~(b)) services provided in department approved rehabilitation hospitals and general hospital distinct units, and services for physical medicine and rehabilitation (PM&R) patient,~~

~~(b) Pain treatment provided in department approved pain treatment facilities,~~

~~(c) Free standing psychiatric hospitals,~~

~~(d) Alcoholism treatment and detoxification provided in a department approved alcohol treatment center (ATC),~~

~~(e) DRGs 385-389,~~

~~(f) Long-term hospital level care services,~~

~~(g) Services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program.~~

~~(h) HMO hospitals providing inpatient services to HMO enrollees, and~~

~~(i) Department approved services to AIDS patients.~~

(5) Payments for excluded DRG-based services are based on the Operating Expenses to Total Rate Setting Revenue (OE/TRSR) price methodology as prescribed in the department's Title XIX State Plan. For out-of-state hospitals, including border area hospitals, the department shall apply the Washington state-wide average OR/TRSR to allowable charges, unless the border hospital is a contracting hospital.

~~((c) Services at children's hospitals.~~

(4) Payment for excluded services is determined as follows:

(a) Reimbursable cost of excluded services in subsection (3)(a) and (b) of this section is determined by multiplying charges in allowable revenue codes by the ratio of hospital commission approved operating expenses to total rate setting revenue:

(b) Payment rates for children's hospitals are determined by computing the ratio of indexed historical hospital commission approved operating expenses to total rate setting revenue. This ratio is multiplied times allowable charges:

(5) For all administrative days, days of hospitalization in which medical necessity is below that appropriate for acute hospital care, the departments maximum reimbursement level will be the adjusted state-wide average per diem rate for skilled nursing facilities:))

(6) For dates of admission beginning October 1, 1985, payment rates established in accordance with subsections (2), (4) and (5) of this section are reduced for services provided to persons eligible for the medically indigent component of the limited casualty program and recipients of medical care services. Hospitals are grouped according to the percentage of total rate setting revenue comprising medical assistance, medicare, bad debt, charity, and other contractual adjustments and rates are reduced according to the following table.

Hospital Group	Percent Medicare, Medicaid, Bad Debt, Charity and other Contractual Adjustments of Total Rate Setting Revenue	Percentage Reduction in Payment Rate
1	60.00 or more*	20.0
2	50.00 - 59.99	40.0
3	less than 50.00	60.0

*Plus psychiatric hospitals

~~((7) Payment rates or amounts to hospitals established by this section will be adjusted as necessary to remove the impacts of ownership changes and revaluation of assets, including recapture of depreciation as necessary, in accordance with section 2314 of Public Law 98-369 and related federal regulations, guidelines, instructions, and state plan requirements:))~~

WSR 88-04-049**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed January 29, 1988]

We are withdrawing WSR 87-24-048, WAC 296-20-03001, Treatment requiring authorization.

Taylor Dennen
for Joseph A. Dear
Director

WSR 88-04-050**PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed January 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning the list of attorneys who are eligible for appointment as special assistant attorneys general to represent the department pursuant to RCW 51.24.110. The rules describe the qualifications necessary for inclusion on the list and the method of applying for inclusion;

that the agency will at 3:00 p.m., Thursday, March 10, 1988, in the Large Conference Room, 1st Floor, General Administration Building, Olympia, 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on or after March 31, 1988.

The authority under which these rules are proposed is RCW 51.24.110.

The specific statute these rules are intended to implement is RCW 51.24.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 11, 1988.

Dated: January 29, 1988

By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rules: WAC 296-14-900 through 296-14-960, list of attorneys.

Statutory Authority: RCW 51.24.110.

Specific Statute the Rules are Intended to Implement: RCW 51.24.110.

Summary of the Rules: To add several new sections to chapter 296-14 WAC. RCW 51.24.110 directs the department to adopt rules establishing a list of attorneys who are eligible to be appointed special assistant attorneys general to represent the department in tort cases assigned to the department under RCW 51.24.050. The rules establish the criteria, and the procedure by which an attorney may apply, for inclusion on the list. WAC 296-14-950 indicates that the Attorney General's Office, and not the department, is the appointing authority, and WAC 296-14-960 describes an attorney's responsibilities if an appointment is made.

Reasons Supporting the Proposed Rules: The legislature has directed the department to adopt the rules.

Agency Person Responsible for Drafting, Implementing and Enforcing the Rule: Winnie Nichols, Acting Manager, Special Services, General Administration Building, Mailstop HC-241, Olympia 98504, phone (206) 753-2320.

Organization Proposing the Rule: Department of Labor and Industries.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rules: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may Help Identify the Rule or its Purpose: None.

No small business economic impact statement is required.

NEW SECTION

WAC 296-14-900 PURPOSE. WAC 296-14-900 through 296-14-960 implement RCW 51.24.110, which authorizes the department to maintain a list of attorneys from which the attorney general may appoint special assistant attorneys general to represent the department in causes of action under RCW 51.24.050.

NEW SECTION

WAC 296-14-910 DEFINITIONS. In WAC 296-14-900 through 296-14-960:

(1) "Assistant director" means the assistant or deputy director of the industrial insurance division of the department.

(2) "Department" means the department of labor and industries.

NEW SECTION

WAC 296-14-920 QUALIFICATION CRITERIA. To qualify for the list of attorneys from which appointments may be made to represent the department as special assistant attorneys general, an attorney must meet the following minimum criteria. An attorney must:

- (1) Be an active member of the Washington State Bar Association;
- (2) Have an approved trust account and cost accounting system; and
- (3) Have and maintain in force professional liability insurance.

NEW SECTION

WAC 296-14-930 APPLICATION BY ATTORNEYS. (1) An attorney who meets the qualification criteria may seek inclusion on the list of attorneys by filing an application with the assistant director. Application forms may be obtained from the office of the attorney general, the Washington State Bar Association, or the assistant director.

(2) The application form shall be prepared by the department in consultation with the office of the attorney general. The application shall require the applicant to declare under penalty of perjury that the information is true and shall require the applicant to inform the assistant director and the attorney general of any changes in his or her qualifications.

NEW SECTION

WAC 296-14-940 LIST OF ATTORNEYS. (1) The department shall determine whether an attorney meets the criteria of WAC 296-14-920. The department may consult with the Washington State Bar Association and the office of the attorney general if necessary to make the determination.

(2) After an attorney has been entered on the list of attorneys, the assistant director shall forward the attorney's completed application form to the attorney general.

(3) The assistant director shall maintain the list of attorneys from which the attorney general may appoint special assistant attorneys general to represent the department.

(4) The assistant director shall, once every three months, provide the attorney general and the Washington State Bar Association with a current copy of the list of attorneys.

NEW SECTION

WAC 296-14-950 APPOINTMENT OF ATTORNEY AS SPECIAL ASSISTANT. (1) In its sole discretion, the department may ask the attorney general to appoint a special assistant attorney general to represent the department on any particular cause of action assigned to the department under RCW 51.24.050.

(2) Upon receipt of a request from the department, the attorney general may appoint as a special assistant attorney general an attorney from the list of attorneys maintained by the assistant director. The attorney general may also appoint to represent the department a regularly employed assistant attorney general. The department recognizes that the appointment is entirely within the discretion of the attorney general.

(3) An appointment of an attorney from the list shall be made pursuant to contract between the attorney general and the attorney. The contract shall specify the method of compensation for the attorney.

(4) RCW 51.24.110 and WAC 296-14-900 through 296-14-960 do not give to attorneys on the list any right to or any expectation of employment as a special assistant attorney general.

NEW SECTION

WAC 296-14-960 LIMITATIONS OF APPOINTMENT. (1) An appointment may be made pursuant to this chapter only in causes of action assigned to the department under RCW 51.24.050.

(2) An appointment shall be for the single case only unless the contract of appointment specifically states otherwise.

(3) Under any appointment made pursuant to this chapter, the client of the special assistant attorney general is the department, not the injured worker.

WSR 88-04-051

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed January 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning medical aid rules and maximum fee schedule, WAC 296-20-045 and 296-23-620 dealing with chiropractic consultations in cases where injured workers' conservative or chiropractic care extends past 120 days following the initial visit.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 29, 1988.

The authority under which these rules are proposed is RCW 51.04.020(4) and 51.04.030.

The agency reserves the right to modify the text of these proposed rules and changes prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing.

Written and/or oral submissions may also contain data, views, and arguments of the rules on economic values, pursuant to chapter 43.21H RCW.

Correspondence relating to this notice and proposed rules should be addressed to:

Taylor Dennen, Assistant Director
for Medical Services
Department of Labor and Industries
General Administration Building
Mailstop HC-251
Olympia, Washington 98504

This notice is connected to and continues the matter in Notice Nos. WSR 87-23-052 and 88-01-111 filed with the code reviser's office on November 18, 1987, and December 22, 1987.

Dated: January 29, 1988

By: Joseph A. Dear
Director

WSR 88-04-052

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-29—Filed January 29, 1988]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to medical aid rules and maximum fee schedule, WAC 296-21-128 dealing with special services and billing procedures for anesthesia.

This action is taken pursuant to Notice No. WSR 87-23-052 filed with the code reviser on November 18, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 51.04.020(4) and 51.04.030 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 29, 1988.

By Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-21-128 SPECIAL SERVICES AND BILLING PROCEDURES—ANESTHESIA. Many anesthesia services are provided under particularly difficult circumstances depending on factors such as extraordinary condition of patient, notable operative conditions, unusual risk factors. This section includes a list of important qualifying circumstances that significantly impact on the character of the anesthetic service provided. These procedures would not be reported alone but would be reported as additional procedure numbers qualifying an anesthesia procedure or service.

	Unit Value
<p style="text-align: center;">QUALIFYING CIRCUMSTANCES: (More than one may be selected.)</p>	
99100 Anesthesia for patient of extreme age, under one year and over seventy	BR
99110 Anesthesia complicated by prone position and/or intubation to avoid surgical field	1.0
99116 Anesthesia complicated by utilization of total body hypothermia	10.0
99125 Anesthesia complicated by extracorporeal circulation, e.g., heart pump oxygenator bypass or pump assist, with or without hypothermia	10.0
99130 Anesthesia complicated by hyperbaric or compression chamber pressurization	BR
99135 Anesthesia complicated by utilization of controlled hypotension	BR
99140 Anesthesia complicated by emergency conditions (specify) (An emergency is defined as existing when delay in treatment of the patient would lead to a significant increase in the threat to life or body part.)	((20.0))
	<u>2.0</u>

WSR 88-04-053

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed January 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning this notice proposes to amend the effective date of October 1, 1987, in WAC 296-81-008(4) to the correct effective date of December 6, 1987.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 23, 1988.

The authority under which these rules are proposed is RCW 70.87.030.

The specific statute these rules are intended to implement is chapter 70.87 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 29, 1988

By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-81 WAC, Safety rules governing existing elevators, dumbwaiters, escalators and other lifting devices—Moving walks; including WAC 296-81-008 National Elevator Code Supplement adopted.

Statutory Authority: RCW 70.87.030.

Specific Statute that Rule is Intended to Implement: Chapter 70.87 RCW.

Summary of the Rule(s): To amend the effective date of October 1, 1987, in WAC 296-81-008(4) to the correct effective date of December 6, 1987.

Reasons Supporting the Proposed Rule(s): None.

Agency Personnel Responsible for Drafting: William T. O'Hara, Chief Elevator Inspector, Division of Building and Construction Safety Inspection Services, 19435 West Valley Highway, Building S, Suite 108, Kent, Washington, (206) 872-6340; Implementation and Enforcement: Artherline L. Robersen, Assistant Director, Division of Building and Construction Safety Inspection Services, 805 Plum Street S.E., Olympia, Washington, (206) 753-7455.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 87-21, filed 11/6/87)

WAC 296-81-008 NATIONAL ELEVATOR CODE SUPPLEMENT ADOPTED. (1) The American National Standard Supplement to Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, A17.1-1971, ANSI A17.1a-1972 is hereby adopted as additional standards for compliance in this state for elevators, dumbwaiters, escalators, and moving walks installed from February 25, 1972, through June 30, 1982, and by this reference such standards are incorporated herein as though fully set forth. Copies of this supplement may be obtained from The American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

(2) The 1981 edition of ANSI A17.1 is supplemented by the ANSI A17.1a - 1982 supplement for elevators, dumbwaiters, escalators, and moving walks installed on or after March 1, 1984, through January 9, 1986. The 1981 edition of ANSI A17.1 and ANSI A17.1a - 1982 is supplemented by ANSI A17.1b - 1983 for elevators, dumbwaiters, escalators, and moving walks installed on or after December 1, 1984, through January 9, 1986, with the exception of portable escalators covered by Part VIII of ANSI A17.1b - 1983.

(3) The 1984 edition of ANSI A17.1 is supplemented by the ANSI A17.1a - 1985 supplement for elevators, dumbwaiters, escalators, and moving walks installed on or after January 10, 1986.

(4) The 1984 edition of ANSI A17.1 is supplemented by ANSI A17.1b - 1985, ANSI A17.1c - 1986, ANSI A17.1d - 1986, and ANSI A17.1e - 1987 for elevators, dumbwaiters, escalators, and moving walks installed on or after ~~(October 1)~~ December 6, 1987.

WSR 88-04-054

ADOPTED RULES

INSURANCE COMMISSIONER

[Order R 88-1—Filed January 29, 1988—Eff. February 29, 1988]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the grant of permission for individual, franchise and group permanent (cash value) life insurance plans and pension plans which are funded in whole or in part by life insurance to provide the same cash surrender values and paid-up nonforfeiture benefits to men and women in employer-sponsored situations.

This action is taken pursuant to Notice No. WSR 88-01-059 filed with the code reviser on December 16, 1987. These rules shall take effect at a later date, such date being February 29, 1988.

This rule is promulgated pursuant to RCW 48.02.060 which directs that the Insurance Commissioner has authority to implement the provisions of federal law, including but not limited to decision of United States Supreme Court in *Arizona Governing Committee v. Norris*, 103 S. Ct. 3492 (1983).

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 29, 1988.

Dick Marquardt
Insurance Commissioner
By Patricia D. Petersen
Deputy Insurance Commissioner

NEW SECTION

WAC 284-74-200 GENDER BLENDED MORTALITY TABLES FOR INDIVIDUAL LIFE INSURANCE POLICIES. The purpose of this section is to permit individual, franchise and group permanent (cash value) life insurance policies and pension plans funded in whole or in part by life insurance to provide the same cash values and paid-up nonforfeiture benefits to both men and women. No change in minimum valuation standards is implied by this section.

(1) As used in this section, the following definitions apply:

(a) "1980 CSO table, with or without ten-year select mortality factors," means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the society of actuaries committee to recommend new mortality tables for valuation of standard ordinary life insurance incorporated in the 1980 National Association of Insurance Commissioners (NAIC) amendments to the model standard valuation law and standard nonforfeiture law for life insurance and referred to in those models as the Commissioner's 1980 Standard Ordinary Mortality Table, with or without ten-year select mortality factors and set forth in Transactions, Society of Actuaries, Vol. XXXIII (1981), pp. 617 and 618, and referred to as the Commissioner's 1980 Standard Ordinary Mortality Table (1980 CSO).

(b) "1980 CSO table (M), with or without ten-year select mortality factors," means that mortality table consisting of the rates of mortality for male lives from the 1980 CSO table, with or without ten-year select mortality factors.

(c) "1980 CSO table (F), with or without ten-year select mortality factors," means that mortality table consisting of the rates of mortality for female lives from the 1980 CSO table, with or without ten-year select mortality factors.

(d) The "ten-year select mortality factors" referred to in (a), (b), and (c) of this subsection are those set forth in Transactions, Society of Actuaries, Vol. XXXIII (1981), p. 669, and referred to therein as selection factors for alternate method of determining life insurance reserves and deficiency reserve requirements (1980 CSO with ten-year select mortality factors).

(e) "1980 CET table" means that mortality table consisting of separate rates of mortality for male and female lives developed by the society of actuaries committee to recommend new mortality tables for valuation of standard individual ordinary life insurance, incorporated in the 1980 NAIC amendments to the standard model nonforfeiture law for life insurance and referred to in those models as the Commissioner's 1980 Extended Term Insurance Table, and set forth in Transactions, Society of Actuaries, Vol. XXXIII (1981), pp. 617 and 619, and referred to therein as the Commissioner's 1980 Extended Term Insurance Mortality Table (1980 CET).

(f) "1980 CET table (M)" means that mortality table consisting of the rates of mortality for male lives from the 1980 CET table.

(g) "1980 CET table (F)" means that mortality table consisting of the rates of mortality for female lives from the 1980 CET table.

(2) For any policy of insurance on the life of either a male or female insured delivered or issued for delivery in this state after the operative date of chapter 48.76 RCW for that policy form, for use in determining minimum cash surrender values and minimum amounts and minimum periods of paid-up nonforfeiture benefits:

(a) A mortality table which is a blend of the 1980 CSO table (M) and the 1980 CSO table (F) with or without ten-year select mortality factors may at the option of the company be substituted for the 1980 CSO table, with or without ten-year select mortality factors.

(b) A mortality table which is of the same blend as used in (a) of this subsection but applied to form a blend of the 1980 CET table (M) and the 1980 CET table (F) may at the option of the company be substituted for the 1980 CET table.

(c) The following tables, which are set forth in NAIC Proceedings, Vol. I, pp. 396-400, will be considered as the basis for acceptable tables:

(i) 100% male - 0% female for tables to be designated as the "1980 CSO-A" and "1980 CET-A" tables.

(ii) 80% male - 20% female for tables to be designated as the "1980 CSO-B" and "1980 CET-B" tables.

(iii) 60% male - 40% female for tables to be designated as the "1980 CSO-C" and "1980 CET-C" tables.

(iv) 50% male - 50% female for tables to be designated as the "1980 CSO-D" and "1980 CET-D" tables.

(v) 40% male - 60% female for tables to be designated as the "1980 CSO-E" and "1980 CET-E" tables.

(vi) 20% male - 80% female for tables to be designated as the "1980 CSO-F" and "1980 CET-F" tables.

(vii) 0% male - 100% female for tables to be designated as the "1980 CSO-G" and "1980 CET-G" tables.

(3) Tables 1980 CSO-A, 1980 CET-A, 1980 CSO-G and 1980 CET-G are not to be used with respect to policies issued on or after the effective date of this regulation, except where the proportion of persons insured is anticipated to be ninety percent or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after the effective date of this regulation must use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered as extensions of the Norris decision or other federal law. This consideration has not been clearly defined by court or legislative action in all jurisdictions as of the date of promulgation of these sections.

(4) Notwithstanding any other provision of this rule, an insurer shall not use these blended tables unless the Norris decision or other federal law is known to apply to the policies involved, or unless there exists a bona fide concern on the part of the insurer that the Norris decision or other federal law might reasonably be construed to apply by a court having jurisdiction.

(5) It shall not be a violation of RCW 48.30.300 for an insurer to issue the same kind of policy of life insurance on both a sex distinct and sex neutral basis.

(6) The effective date of this rule is February 29, 1987, and is intended to comply with the Norris decision and other federal law. It is recognized that the insurance commissioner has approved Norris-type tables prior to this effective date on an individual basis. Tables so approved are hereby deemed to be in compliance with this regulation.

WSR 88-04-055

**NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 27, 1988]**

Below is the revised meeting schedule for regular meetings to be held by the University of Washington's Department of Washington Technology Center.

**BOARD OF DIRECTORS
1988 REGULAR MEETING SCHEDULE
(First Thursday of the month)**

February 4	Seattle, University of Washington
April 7	Seattle, Seattle University
June 2	Pullman, Washington State University, 9:30 a.m.
August 4	Seattle, University of Washington
October 6	Seattle, University of Washington
December 1	Seattle, University of Washington

Unless otherwise indicated or announced, all meetings will start at 9:00 a.m.

WSR 88-04-056

**PROPOSED RULES
INSURANCE COMMISSIONER
[Filed February 1, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner intends to adopt, amend, or repeal rules concerning approval of the plan of operation for the Washington State Health Insurance Coverage Access Act. RCW 48.41.040(4) of the act requires that "The commissioner shall, after notice and hearing pursuant to chapter 34.04 RCW, approve the plan of operation if it is determined to assure the fair, reasonable, and equitable administration of the pool" These new rules, WAC 284-91-025 and 284-91-027, carry out that legislative mandate; that the agency will at 10:00 a.m., Tuesday, March 22, 1988, in the Commissioner's Conference Room, 2nd Floor, Insurance Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 25, 1988.

The authority under which these rules are proposed is RCW 48.02.060.

The specific statute these rules are intended to implement is RCW 48.41.040(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1988. Mailing address: Insurance Building, AQ-21, Olympia, WA 98504-0321.

Dated: January 18, 1988

By: David H. Rodgers
Chief Deputy
Insurance Commissioner

STATEMENT OF PURPOSE

Title: WAC 284-91-025 and 284-91-027 to supplement chapter 284-91 WAC which implements the Washington State Health Insurance Coverage Access Act.

The Washington State Health Insurance Coverage Access Act, chapter 48.41 RCW, was created by the 1987 legislature. It was implemented by chapter 284-91 WAC.

The statutory authority for these proposed additions to chapter 284-91 WAC is RCW 48.41.040(4). The statute, in fact, requires this action by the commissioner.

Proposed WAC 284-91-025 sets forth the commissioner's approval, and his authority therefore, of the plan of operation as it was approved by the board of directors on January 8, 1988. The plan of operation is set forth in WAC 284-91-027.

David H. Rodgers, Chief Deputy Insurance Commissioner, (206) 753-7302 is primarily responsible for drafting these rules and for the implementation and enforcement of these rules. His address is Insurance Building, AQ-21, Olympia, WA 98504-0321.

The rules are proposed by the insurance commissioner, a state elected official.

The proposed rules are not necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: No appreciable disparate economic impact upon small employers or insurers as opposed to large ones.

NEW SECTION

WAC 284-91-025 PLAN OF OPERATION APPROVED. Pursuant to RCW 48.41.040(4) and after public hearing, the Commissioner has determined that the Plan of Operation, as set forth in WAC 281-91-027, provides a sound basis for the fair, reasonable and equitable administration of the pool and provides for the sharing of pool losses on an equitable, proportionate basis among the members of the pool. It is hereby approved.

NEW SECTION

WAC 284-91-027 PLAN OF OPERATION.

Reviser's note: The text of the proposed plan of operation filed by the Office of the Insurance Commissioner has been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish.

WSR 88-04-057

PROPOSED RULES

**UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed February 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to telecommunications companies, WAC 480-120-056, Cause No. U-87-1611-R.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 80.01.040 and 80.36.460.

The specific statute these rules are intended to implement is RCW 80.36.460.

This notice is connected to and continues the matter in Notice No. WSR 88-02-015 filed with the code reviser's office on December 30, 1987.

Dated: February 1, 1988

By: Paul Curl
Acting Secretary

WSR 88-04-058

**NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Memorandum—February 1, 1988]

The March 25, 1988, regular meeting of the Interagency Committee for Outdoor Recreation will be held in the Coho Annex, Tye Motor Inn, 500 Tye Drive, Tumwater, Washington, beginning at 9:00 a.m.

The meeting site is barrier free.

WSR 88-04-059

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed February 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Bellevue Community College, Community College District VIII, intends to adopt, amend, or repeal rules concerning a new section, Commercial activity policy—General operating policies of Community College District VIII;

that the institution will at 1:30 p.m., Tuesday, March 8, 1988, in the Board Room, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 8, 1988.

Dated: January 29, 1988

By: Paul N. Thompson
President

STATEMENT OF PURPOSE

Description of Purpose: Add to permanent rules of the general operating policies of Community College District VIII pertaining to the district's commercial activity policy.

Statutory Authority: RCW 28B.50.140.

Summary of Rule: The commercial activity policy establishes policies relating to commercial activities of Community College District VIII that may compete with private businesses.

Reasons Supporting Proposed Action: To clarify the commercial activity policy of Community College District VIII for students and the general public. Also, to be in compliance with legislation passed in 1987, chapter 97, Laws of 1987.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul N. Thompson, President, Bellevue Community College, 3000 Landerholm Circle S.E., P.O. Box 92700, Bellevue, WA 98009-2037.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Board of Trustees, Bellevue Community College District VIII, public.

Institution Comments or Recommendations: None.

Result of Federal Law or Federal or State Court Action: No.

[NEW SECTION]

WAC 132H-200-200 COMMERCIAL ACTIVITY POLICY. The mission of Community College District VIII, Bellevue Community College, is to provide comprehensive educational programs of the highest quality as provided for in the Community College Act of 1967. These programs will be responsive to the changing needs of the communities and the students served by our District and will be accessible to all those seeking to continue their education.

To promote the mission of Bellevue Community College it is often necessary to engage in commercial activities that provide goods and services that meet special needs of students, faculty, staff and members of the public participating in College activities and events.

Chapter 97 of the Washington Laws of 1987 establishes standards for institutions of higher education to follow in conducting commercial activities. The purpose of these laws is to require institutions of higher education to define the legitimate purposes under which commercial activities may be approved by a college or university and to establish mechanisms for review of such activities. The purposes of the policy statement and standards that follow are to assure that Bellevue Community College pursues commercial activities in compliance with Chapter 97, Laws of 1987 and that all commercial activities of the College serve the mission of the College. (1) POLICY STATEMENT. Bellevue Community College may engage in the providing of goods, services, or facilities for a fee only when such are directly and substantially related to the educational mission for the College. Fees charged for goods, services and facilities shall reflect their full direct and indirect costs, including overhead. They shall also take into account the price of such items in the private marketplace.

(2) APPROVAL AND REVIEW OF COMMERCIAL ACTIVITIES. The Dean of Administrative Services shall be responsible for the approval of new commercial activities and the periodic review of existing ones. It shall be the responsibility of this officer to assure that each commercial activity meets the criteria established for commercial activities of the College. Proposals for new or altered services shall be approved by the Dean of Administrative Services prior to implementation.

(3) CRITERIA FOR COMMERCIAL ACTIVITIES SERVING MEMBERS OF THE CAMPUS COMMUNITY. Each of the following criteria shall be used in assessing the validity of providing goods or services to members of the campus community: (a) The goods or services are substantially and directly related to the mission of the College.

(b) Provision of the goods, services or facilities on campus represents a special convenience to the campus community or facilitates extra-curricular activities.

(c) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead. They shall also reflect the costs of such items in the private marketplace.

(d) Procedures adequate to the circumstances shall be observed to ensure that the goods and services are provided only to persons who are students, faculty, staff, or invited guests.

(4) CRITERIA FOR PROVIDING COMMERCIAL ACTIVITIES TO THE EXTERNAL COMMUNITY. (a) The goods or services provided relate substantially to the mission of the College and are not commonly available or otherwise easily accessible in the private marketplace and for which there is a demand from external community.

(b) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead. They shall also reflect the price of such items in the private marketplace.

(5) DEFINITIONS AND LIMITATIONS. "Commercial activity" means an activity which provides a product or service for a fee which could be obtained from a commercial source.

This definition shall be used to determine which activities shall be governed by this policy except as follows: (a) This policy shall not apply to the initiation of or changes in academic or vocational programs of instruction in the College's regular, extension, evening, or continuing education programs;

(b) Or the fees therefor;

(c) Fees for services provided in the practicum aspects of instruction;

(d) Or in extracurricular programs, including food services, athletic and recreational programs, and performing arts programs.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 88-04-060
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed February 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Advertising by retail licensees, offering for sale, or selling beer, wine, or spirituous liquor at less than cost—Prohibited—Exceptions, WAC 314-52-114;

that the agency will at 9:30 a.m., Wednesday, March 9, 1988, in the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.08.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1988.

Dated: February 1, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-52-114 Advertising by retail licensees, offering for sale or selling beer, wine or spirituous liquor at less than cost—Prohibited—Exceptions.

Description of Purpose: Will eliminate the requirement that beer or wine be sold at retail at not less than ten percent above cost of acquisition.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.08.060.

Summary of Rule: The present rule requires that beer or wine be sold at retail at no less than the retailer's cost of acquisition plus ten percent of the cost of acquisition. The amendment would remove the mandatory ten percent minimum markup and allow sale of beer or wine at no less than acquisition cost.

Reason Supporting Proposed Action: This rule change is being made as part of the stipulated settlement in Cause No. C87-66TB in the United States District Court for the Western District of Washington. As a result of extensive discovery undertaken as part of the above referenced lawsuit, the board came to the following conclusions: The ten percent mandatory minimum markup provision is not necessary for the regulation of the retail market in beer and wine. The existence of independent laws against predatory pricing (RCW 19.86-.010 et seq.) and the remaining prohibitions on sales below acquisition cost (i.e. "loss leaders") are sufficient to prevent the types of predatory practices which the mandatory ten percent minimum markup was aimed at. The board's enforcement resources will be much more efficiently utilized by limiting their investigations to sales of beer or wine below acquisition cost.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule amendment: Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270.

Person or Organization Proposing Rule: Washington State Liquor Control Board as a result of the stipulated settlement of Cause No. C87-66TB in the United States District Court for the Western District of Washington.

Agency Comments: The board does not believe that removal of the ten percent minimum markup over acquisition cost requirement will adversely affect the public interest and will not cause a disruption in the retail distribution of beer and wine. Prior to adoption of the ten percent mandatory minimum markup rule, WAC 314-52-114 was essentially unenforceable for a period of approximately three years as a result of repeal by the legislature of chapter 19.90 RCW. During this period of time, the board's enforcement division reported no problems in this area of regulation.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action. However, the rule amendment was stipulated to by the board as a part of the settlement of a lawsuit in federal court. The order dismissing the action was without prejudice.

Small Business Economic Impact Statement: Cost impact of the rule amendment for both large and small businesses is estimated to be nil. No additional paperwork will be required by either large or small businesses and the board does not estimate that any significant change in retail prices will result from the amendment deleting the mandatory ten percent minimum markup.

AMENDATORY SECTION (Amending Order 213, Resolution No. 222, filed 1/29/87)

WAC 314-52-114 ADVERTISING BY RETAIL LICENSEES, OFFERING FOR SALE, OR SELLING BEER, WINE OR SPIRITUOUS LIQUOR AT LESS THAN COST—PROHIBITED—EXCEPTIONS. (1) Beer, wine, or spirituous liquor shall not be advertised, offered for sale or sold by retail licensees at less than acquisition cost (~~plus ten percent of acquisition cost~~).

(2) The provisions of this section shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such article or product and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation: PROVIDED, Notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the prices of a competitor selling the same article or product in the same locality or trade area and in the ordinary channels of trade.

WSR 88-04-061

EMERGENCY RULES

LIQUOR CONTROL BOARD

[Order 241, Resolution No. 250—Filed February 1, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt

the annexed rules relating to Advertising by retail licensees, offering for sale, or selling beer, wine, or spirituous liquor at less than cost—Prohibited—Exceptions, WAC 314-52-114.

We, the Washington State Liquor Control Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in accordance with a stipulated settlement of Lawsuit No. C87-66TB in the United States District Court for the Western District of Washington, the board is required, within five days of entry of the stipulated order, to amend WAC 314-52-114 in the manner set forth below. Had this lawsuit not been settled, the trial had been scheduled to begin on February 8, 1988. There was not sufficient time to adopt a permanent rule change prior to that date so emergency action was required.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030, 66.98.070 and 66.08.060.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 1, 1988.

By L. H. Pedersen
Chairman

AMENDATORY SECTION (Amending Order 213, Resolution No. 222, filed 1/29/87)

WAC 314-52-114 ADVERTISING BY RETAIL LICENSEES, OFFERING FOR SALE, OR SELLING BEER, WINE OR SPIRITUOUS LIQUOR AT LESS THAN COST—PROHIBITED—EXCEPTIONS. (1) Beer, wine, or spirituous liquor shall not be advertised, offered for sale or sold by retail licensees at less than acquisition cost (~~plus ten percent of acquisition cost~~).

(2) The provisions of this section shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such article or product and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation: PROVIDED, Notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the prices of a competitor selling the same article or product in the same locality or trade area and in the ordinary channels of trade.

WSR 88-04-062
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning Definition—Development, new WAC 390-20-022;

that the agency will at 9 a.m., Tuesday, February 23, 1988, in the 2nd Floor Conference Room, Evergreen Plaza Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 23, 1988.

The authority under which these rules are proposed is RCW 42.17.370.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1988.

This notice is connected to and continues the matter in Notice Nos. WSR 87-19-155 and 88-01-001 filed with the code reviser's office on September 23, 1987, and December 3, 1987.

Dated: February 1, 1988
By: Graham E. Johnson
Executive Director

WSR 88-04-063
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning Agency lobbying—Constituent group relations, new WAC 390-20-056;

that the agency will at 9 a.m., Tuesday, March 22, 1988, in the 2nd Floor Conference Room, Evergreen Plaza Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 22, 1988.

The authority under which these rules are proposed is RCW 42.17.370.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 22, 1988.

Dated: February 1, 1988
By: Graham E. Johnson
Executive Director

STATEMENT OF PURPOSE

Title: WAC 390-20-056 Agency lobbying—Constituent group relations.

Description of Purpose: Grass roots lobbying by public agencies.

Statutory Authority: RCW 42.17.370(1).

Summary of Rule: Provides commission's interpretation that public agencies cannot rely on the disclosure law for authority to fund efforts to rally members of constituent groups or the general public in support of the agency's position on legislation.

Reasons Supporting Proposed Action: Citizen request for an interpretation.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graham E. Johnson, executive director.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: N/A.

NEW SECTION

WAC 390-20-056 AGENCY LOBBYING—CONSTITUENT GROUP RELATIONS. A state or local agency cannot rely on RCW 42.17.190 (2) & (3) for authority to expend public funds to attempt to mobilize its employees, clientele, or constituent groups or the general public in support of or in opposition to legislation, but this does not prevent an agency from making known to such persons its position(s) on legislation or its assessment of the impact legislation would have on agency programs, services, etc.

WSR 88-04-064
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—January 29, 1988]

The Washington State Human Rights Commission will hold its next regular commission meeting in Olympia on February 24 and 25, 1988. The meeting on February 24 will be held at the Olympia Timberland Library, West Room, Eighth and Franklin, Olympia, from 7:00 p.m. to 11:00 p.m. and will be a training and work session with time set aside for the public to address the commissioners. The morning session of the regular business meeting will be held at the Department of Transportation, Transportation Commission Board Room, 1D2, Jefferson and Maple Park, Olympia, beginning at 9:30 a.m. on February 25. The afternoon session will be held in the Governor's Conference Room, Legislative Building, Olympia, beginning at 2:00 p.m. to meet with the legislators. The main topic of discussion for the meeting will be legislative issues.

WSR 88-04-065
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning Military training leave—Paid, repealing WAC 356-18-130;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 28, 1988

By: Leonard Nord
Secretary

REPEALER

WAC 356-18-130 MILITARY TRAINING LEAVE—PAID.

WSR 88-04-066
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- Rep WAC 356-05-005 Acting appointment.
- Rep WAC 356-05-145 Emergency appointment.
- Rep WAC 356-05-330 Provisional appointment.
- Rep WAC 356-30-020 Appointments—Provisional—Recruitment.
- Rep WAC 356-30-030 Appointments—Provisional—Limitations—Prohibited.
- Rep WAC 356-30-040 Appointments—Provisional—Employees accepting.
- Rep WAC 356-30-050 Appointments—Emergency—How made—Status.
- Rep WAC 356-30-070 Appointments—Acting.
- Rep WAC 356-30-080 Temporary appointments—Exempt service;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 29, 1988

By: Leonard Nord
Secretary

REPEALER

WAC 356-05-005 ACTING APPOINTMENT.
WAC 356-05-145 EMERGENCY APPOINTMENT.

- WAC 356-05-330 PROVISIONAL APPOINTMENT.
- WAC 356-30-020 APPOINTMENTS—PROVISIONAL—RECRUITMENT.
- WAC 356-30-030 APPOINTMENTS—PROVISIONAL—LIMITATIONS—PROHIBITED
- WAC 356-30-040 APPOINTMENTS—PROVISIONAL—EMPLOYEES ACCEPTING
- WAC 356-30-050 APPOINTMENTS—EMERGENCY—HOW MADE—STATUS
- WAC 356-30-070 APPOINTMENTS—ACTING
- WAC 356-30-080 TEMPORARY APPOINTMENTS—EX-EMPT SERVICE

Reviser's note: Errors of punctuation or spelling in the above repealer occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 88-04-067
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning Disciplinary actions—Causes for demotion—Suspension—Reduction in salary—Dismissal, amending WAC 356-34-010;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 28, 1988

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-34-010.

Title: Disciplinary actions—Cause for demotion—Suspension—Reduction in salary—Dismissal.

Purpose: Lists causes for which an employee may be disciplined.

Statutory Authority: RCW 41.06.150(1).

Summary: Currently the rule restricts the application of disciplinary action to permanent employees. The rule revision allows disciplinary action for cause to be applied to any employee.

Reasons: Equal treatment of permanent and nonpermanent employees. Under the current rule, appointing authorities may not discipline for cause probationary or other nonpermanent employees.

Responsibility for Drafting: John Boesenberg, Department of Personnel, 600 South Franklin, FE-11,

Olympia, WA 98504, phone (206) 586-1769; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Personnel.

Comments: [No information supplied by agency.]

Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 230, filed 9/18/85)

WAC 356-34-010 DISCIPLINARY ACTIONS—CAUSES FOR DEMOTION—SUSPENSION—REDUCTION IN SALARY—DISMISSAL. (1) Appointing authorities may demote, suspend, reduce in salary, or dismiss (~~a permanent~~) an employee under their jurisdiction for any of the following causes:

- (a) Neglect of duty.
 - (b) Inefficiency.
 - (c) Incompetence.
 - (d) Insubordination.
 - (e) Indolence.
 - (f) Conviction of a crime involving moral turpitude.
 - (g) Malfeasance.
 - (h) Gross misconduct.
 - (i) Willful violation of the published employing agency or department of personnel rules or regulations.
- (2) Appointing authorities shall dismiss any employee under their jurisdiction whose performance is so inadequate as to warrant dismissal.
- (3) Appointing authorities shall remove from supervisory positions those supervisors who, in violation of subsection (2) of this section, have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

WSR 88-04-068
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- Amd WAC 356-05-320 Project employment.
- Amd WAC 356-05-415 Temporary employment.
- Amd WAC 356-18-190 Interim employee rights.
- Amd WAC 356-26-050 Certification—Requests for.
- Amd WAC 356-26-080 Certification—Exhausted registers—Procedure.
- Amd WAC 356-30-015 Appointments—Prohibition of multiple appointments to single position—Exceptions.
- Amd WAC 356-30-065 Temporary appointments—Classified service.
- New WAC 356-30-067 Temporary appointments from within classified service.
- Amd WAC 356-30-140 Intermittent employment—Rules—Regulations.
- Amd WAC 356-30-145 Project employment.
- Amd WAC 356-30-330 Reduction-in-force—Reasons, regulation—Procedure.
- Amd WAC 356-47-030 Career executive program—General provisions.
- Amd WAC 356-47-045 Career executive program—Employee selection;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: February 2, 1988

By: Leonard Nord
 Secretary

STATEMENT OF PURPOSE

- Amend WAC 356-05-320.
 Title: Project employment.
 Purpose: Defines project employment.
 Summary: Will limit the time frame of projects and simplify the rule.
 Reasons: General update to establish time frames within project designations.
- Amend WAC 356-05-415.
 Title: Temporary employment.
 Purpose: Definition of temporary employment.
 Summary: Will change the time frames on temporary employment.
 Reasons: General update to establish time frames within project designations.
- Amend WAC 356-18-190.
 Title: Interim employee rights.
 Purpose: Requires the use of temporary appointments to fill in for employees on approved leave without pay.
 Summary: Brings rule in line with other changes and new rule on temporary appointments.
 Reasons: To clarify this rule and make it consistent with the changes to the WAC on temporary appointments.
- Amend WAC 356-26-050.
 Title: Certification—Requests for.
 Purpose: Describes requirements for filing vacancies in existing or newly allocated positions.
 Summary: Will strike the reference to emergency appointments.
 Reasons: This will make the rule consistent with the changes to the WAC on temporary appointments.
- Amend WAC 356-26-080.
 Title: Certification—Exhausted registers—Procedure.
 Purpose: [No information supplied by agency.]
 Summary: Strikes the reference to provisional and replaces it with temporary.
 Reasons: This will make the rule consistent with the changes to the WAC on temporary appointments.
- Amend WAC 356-30-015.
 Title: Appointments—Prohibition of multiple appointments to single position—Exceptions.
 Purpose: Restricts the use of multiple appointments and defines when they can be used.
 Summary: Will strike the references to emergency and acting appointments.

Reasons: This will make the rule consistent with the changes to the WAC on temporary appointments.

Amend WAC 356-30-065.

Title: Temporary appointments—Classified service.

Purpose: Provides general guidelines for temporary appointments.

Summary: Will extend the length, expand the reasons, restricts consecutive appointments and merges several types of nonpermanent appointments.

Reasons: This will make the rule consistent with the changes to the WAC on temporary appointments.

New WAC 356-30-067.

Title: Temporary appointments from within classified service.

Purpose: N/A.

Summary: Provides guidelines for temporary appointments of permanent employees.

Reasons: Changes the parameters and requirements.

Amend WAC 356-30-140.

Title: Intermittent employment—Rules.

Purpose: Gives parameters for intermittent employment.

Summary: Adds a requirement to meet qualifications, and to monitor the use of intermittent appointments.

Reasons: Changes the parameters and requirements.

Amend WAC 356-30-145.

Title: Project employment.

Purpose: Gives requirements for project designation and provides rights for project employees.

Summary: Adds requirements for project requests and gives more rights to project employees entering employment through competitive procedures.

Reasons: Changes the parameters and requirements.

Amend WAC 356-30-330.

Title: Reduction-in-force—Reasons, regulations—Procedure.

Purpose: Provides procedures for employee rights during reduction-in-force.

Summary: Strikes references to emergency and provisional appointments.

Reasons: This will make the rules consistent with the WAC changes on temporary appointments.

Amend WAC 356-47-030.

Title: Career executive program—General provisions.

Purpose: Provides guidelines for the career executive program.

Summary: Strikes references to acting, emergency and provisional appointments.

Reasons: This will make the rules consistent with the WAC changes on temporary appointments.

Amend WAC 356-47-045.

Title: Career executive program—Employee selection.

Purpose: Explains the provisions for selecting career executive program employees.

Summary: Strikes references to acting, provisional and emergency appointments.

Reasons: This will make the rules consistent with the WAC changes on temporary appointments.

Statutory Authority: RCW 41.06.150(4).

Responsibility for Drafting: Christina Valadez, Department of Personnel, 600 South Franklin, FE-11, Olympia, WA 98504, phone (206) 586-3329; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Personnel.

Comments: [No information supplied by agency.]

Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-320 PROJECT EMPLOYMENT. A program designated by the director of personnel as "project employment," that is separately ~~((financed))~~ funded by a grant, ~~((federal))~~ or by specially targeted funds, or ~~((by))~~ state funds, ~~((or by a combination of funds to provide training or employment opportunities or expertise or additional employees to carry out a specific project or goal and which, either because of the nature of the project, funding requirements, or potential harmful impact on employment opportunities for regular civil service employees, cannot be facilitated through the regular civil service system))~~ has a specific goal, and has an end in sight. Such a program may last ~~((upward))~~ up to two years ~~((and beyond, but has an end in sight))~~.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-415 TEMPORARY EMPLOYMENT. Single or multiple periods of employment during the absence of a permanent employee or for work done at a workload peak and normally lasting for ~~((less than nine))~~ twelve months ~~((and having an end in sight))~~ or less.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-18-190 INTERIM EMPLOYEE RIGHTS. (1) The appointment and employment of any person on a position vacated under the provision governing leave without pay shall be temporary ~~((under the meaning of this rule, except that the temporary period may be extended to cover the period of the leave of absence by the director and shall end not later than 30 days after the end of the leave of absence. The appointing authority shall advise the temporary employee in writing of the temporary status of the appointment)), and shall be filled in accordance with WAC 356-30-065 and 356-30-067.~~

~~((2) If the employee on leave without pay does not return to the position after the above 30 calendar days have elapsed, except in the case of military leave, the temporary incumbent employee may be given a permanent appointment in accordance with the rules governing certification:))~~

AMENDATORY SECTION (Amending Order 40, filed 12/10/71)

WAC 356-26-050 CERTIFICATION—REQUESTS FOR. (1) Requests for certification will be submitted on the prescribed form by the appointing authority to the Director when filling vacancies in existing or newly allocated positions. Such requests shall constitute assurance to the Director that funds are available for filling vacancies for which registers are requested.

(2) ~~((Except for an emergency appointment;))~~ No appointment to a classified position shall be made without prior authorization by the Director or designee.

(3) No certification may be cancelled except for reasons filed with and approved by the Director.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-26-080 CERTIFICATION—EXHAUSTED REGISTERS—PROCEDURE. (1) While all names need not be taken from the same register, each register must be exhausted before using the next register.

(2) When there are fewer names than constitute a complete certification for the class, the director may substitute an allied series of registers if ~~((he))~~ the director determines the allied registers are sufficiently similar.

(3) When there are fewer names than constitute a complete certification for the class and no allied register is determined appropriate, the remaining names on all incomplete registers will be certified. However, an appointing authority may request a ((provisional)) temporary appointment providing full and fair consideration has been given to those names certified, and the director determines that the person meets the announced qualifications and grants approval.

AMENDATORY SECTION (Amending Order 124, filed 10/2/78)

WAC 356-30-015 APPOINTMENTS—PROHIBITION OF MULTIPLE APPOINTMENTS TO SINGLE POSITION—EXCEPTIONS. Multiple appointments to single positions within the classified service shall be restricted to the following situations:

(1) Tandem or part-time employment where the total FTE's for all persons in the position(s) does not exceed one FTE per position

(2) Reasonable training periods

(3) Periods of approved leave of absence

(4) ((Emergency;)) Temporary((-or-acting)) appointments made in accordance with the merit system rules.

Any exceptions not permitted by this section must be approved in advance by the director of personnel, or designee.

AMENDATORY SECTION (Amending Order 210, filed 10/17/84)

WAC 356-30-065 TEMPORARY APPOINTMENTS—((CLASSIFIED)) EXEMPT SERVICE. (1) The director or designee may make temporary appointments ((may be made)) to classified positions during the absence of a permanent employee or ((during a workload peak having an end in sight)) when there is a need to fill a position for less than twelve months or while recruitment is being conducted to establish a complete register.

(2) Temporary appointments may be made at the same or lower level classes within the same or related class series as the classification of the position to which the appointment is made.

(3) Temporary appointments shall be ((reported to)) approved by the director of personnel, or designee. A temporary appointment shall last no more than ((nine)) twelve months for single appointments, or no more than ((nine)) twelve cumulative months for multiple appointments within a ((continuous twelve-month)) two-year period((-except when a temporary appointment is made to replace a permanent employee who has been granted a leave of absence without pay in accordance with WAC 356-18-140, 356-39-120, and 356-39-130 or when a temporary appointment is made to replace a permanent employee who was appointed pursuant to WAC 356-39-040, 356-30-040, 356-30-065, and 356-30-070. In such cases, the temporary appointment may extend to thirty days after the date the permanent employee is scheduled to return)). No extensions of temporary appointments from outside classified service shall be granted.

(4) A ((two-month)) six-month break in service ((shall)) must occur ((since)) between the last temporary or intermittent appointment and a new nonpermanent appointment of the same person in the same agency, except for multiple appointments as indicated in subsection (3) of this section.

(5) Temporary appointees must meet the minimum qualifications of the class to which they are appointed. Established registers, certification, and referral services are available and may be used when making temporary appointments. An employee given a temporary appointment following certification from the register to fill a position in the absence of a permanent employee who is on leave may enter a probationary ((or trial service)) period ((and subsequently gain permanent status)) when ((a change in)) the permanent employee does not return to the agency and the agency needs ((results in the permanent availability of)) to fill the position permanently. The director must approve the change in status before it occurs. Time served in a temporary appointment will not be counted as part of the probationary period.

(6) Compensation of temporary ((appointees)) employees shall be ((consistent with the rules)) the same as permanent employees in the same classification.

(7) ((An employee who accepts a temporary appointment to another classified position shall not achieve permanent status in the class to which the employee was temporarily appointed. Upon termination of such temporary appointment, a permanent employee shall have the right to resume a permanent position at their former status and salary including any increments and/or adjustments that may have accrued.))

Merit system rules governing all forms of leave will apply to temporary employees.

(8) An employee's temporary appointment may be ended ((with)) by stipulating a termination date on the appointment letter or by giving one full working day's notice prior to the effective date. The employee receiving such notice shall not have the right of appeal or hearing.

(9) Temporary employees not appointed from within the classified service are exempt from these rules unless specifically included and have no appeal rights.

NEW SECTION

WAC 356-30-067 TEMPORARY APPOINTMENTS FROM WITHIN CLASSIFIED SERVICE. (1) Temporary appointments of classified employees may be made at any level during the absence of a permanent employee, or when there is a need to fill a position for less than twelve months. In addition to the reasons cited above, temporary appointments to supervisory or managerial positions may also be made to fill a vacancy pending reorganization.

(2) All temporary appointments to supervisory or managerial positions must be made from within state service.

(3) Established registers, certification, and referral services are available and may be used when making temporary appointments. An employee given a temporary appointment following certification from the register to fill a position in the absence of a permanent employee who is on leave may enter a probationary or trial service period and subsequently gain permanent status when the permanent employee does not return to the agency and the agency needs to fill the position permanently. The director must approve the change in status before it occurs. Time served in a temporary appointment will not be counted as part of the probationary or trial service period.

(4) Permanent or probationary classified employees may accept a temporary appointment to a class for which they meet the minimum qualifications. Upon termination of such temporary appointment, a permanent or probationary employee shall have the right to resume a permanent position within their permanent agency at their former status. The employee's salary upon return will be determined as if the employee had remained in the permanent position.

(5) Temporary appointments made from within classified service will normally last no more than twelve months for single appointments, or no more than twelve cumulative months for multiple appointments within a two-year period. An extension may be approved by the director when a temporary appointment is made to replace a permanent employee who has been granted a leave of absence or when temporarily filling a supervisory or managerial position when there is reorganization pending. In such cases, the temporary appointment may extend to thirty days after the date the permanent employee is scheduled to return.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-30-140 INTERMITTENT EMPLOYMENT—RULES—REGULATIONS. (1) ((The director may not authorize)) An intermittent appointment may not go beyond a total working time of nine months (1560 hours) during any consecutive ((+2)) twelve-month period. Any position which is filled beyond the nine-month cumulative period shall be considered a permanent full-time position and ((will)) must be filled in accordance with WAC 356-26-010 through 356-26-130.

(2) ((The appointing authority is not obligated to consult the register, but he may request the director to furnish the register as a service)) Intermittent appointees must meet the minimum qualifications for the class in which they are hired. Intermittent appointments must be made from an existing register if candidates on the register are available for and willing to accept temporary and/or part-time employment.

(3) No person can become a permanent employee because of time served as an intermittent employee.

(4) A six-month break in service must occur between the last intermittent or temporary appointment and a new nonpermanent appointment of the same person in the same agency.

(5) Agencies must review intermittent appointments on a quarterly basis to ensure that intermittent employees are not being used when the hours required warrant the use of full-time permanent employees.

AMENDATORY SECTION (Amending Order 112, filed 11/7/77)

WAC 356-30-145 PROJECT EMPLOYMENT. (1) Project employment when designated by the director, is the grouping together of employees whose length of employment is contingent on state, federal or other grant funding of specific and ~~((noncontinuing projects))~~ of time limited duration.

(2) ~~((Proposals))~~ Requests for the designation of project employment will be initiated by the ~~((or one of the involved agencies))~~ proposing agency and made to the director. Such ~~((proposal))~~ requests will include:

(a) The nature and scope of the program.
 (b) Source and conditions of funding.
 (c) Explanation of why project status should be used rather than regular classified service.

(d) Explanation of why competitive service is not practical to use if noncompetitive service is requested.

(e) Relationship of project to regular operations and programs of the agencies.

~~((fd))~~ (f) Number of positions.

~~((ft))~~ (g) Duration (not to exceed two years).

~~((ff))~~ (h) Employee organizations affected.

~~((fg))~~ (i) Project employees benefits.

(3) Permanent employees in regular positions may transfer, promote, or voluntarily demote into project employment positions as provided by these rules unless prohibited by the contract that established the project.

(4) Positions in project employment will be ~~((designated as))~~ in the ~~((noncompetitive or))~~ competitive service ~~((as the situation and))~~ unless the director determines otherwise. ~~((Positions in this grouping of employment will be so designated and the employees filling the positions will be notified, in writing, of the expected ending date of their employment))~~ Grounds such as special requirements of the project contract, insufficient time to recruit and unavailability of a register, or other circumstances where a competitive exam is not practicable may warrant use of the noncompetitive service.

(5) ~~((Project employees, who have transferred into project employment without permanent status, will gain permanent status upon completion of their probation period and shall be entitled to appropriate rights within project employment. Employees filling project positions, who have entered project employment through the noncompetitive procedure, may apply for regular positions via the open competitive route; once permanent project status has been gained, project employees may have their names placed on the transfer register for regular positions in the same or similar job classes for which permanent project status has been gained. In addition, permanent project employees may have their names placed on the voluntary demotion register for similar job classes for which permanent project status has been gained. Permanent project employees may not transfer or voluntarily demote directly into regular positions without first being certified from the appropriate register. Project employees who have gained permanent status within the boundaries of the project, and transfer or voluntarily demote into a regular position, will not be required to serve a probationary period. Project employees who are currently on the registers will continue to be on the registers and may be certified as provided in these rules.))~~ Employees hired into proposed positions must be notified, in writing, of the expected ending date of their employment.

(6) Project employees who have entered into project employment without permanent status, will gain permanent project status upon completion of their probation period and shall be entitled to appropriate rights within project employment and to those outlined below.

(a) Once permanent project status has been gained, project employees may have their names placed on the transfer or voluntary demotion register for regular positions in the same or similar job classes for which permanent project status has been gained.

(b) Permanent project employees who entered project employment via the noncompetitive process must be certified from the appropriate register in order to transfer, voluntarily demote, or promote directly into regular positions. These employees may continue to apply for regular positions via the open competitive route.

(c) Permanent project employees who entered project positions via the competitive process may transfer, voluntarily demote, or apply as promotional candidates to regular classified positions as though they were permanent employees unless permanent employees have been prohibited from competing for the project positions.

(d) Project employees who have gained permanent project status, and transfer or voluntarily demote into a regular position, will not be required to serve a probationary period.

(e) Project employees who are currently on the registers will continue to be on the registers and may be certified as provided in these rules.

(7) Employees who left a state agency with permanent status and came directly into project employment will continue to have promotional opportunities and transfer rights of their former position as though they were still employed in that agency. ((Also, employees with permanent status who entered project positions in the competitive service via the competitive procedure may be accepted as promotional candidates to regular positions as though they had been employees with permanent status with the sponsoring agency.

~~((7))~~ (8) Project employees will have reduction in force rights within their project boundaries only and will compete according to "seniority," except permanent employees who left regular classified positions to accept project employment will have the reduction in force rights of the position they left. ((This) Time spent in project employment will also be credited to the employees' seniority for use in competing in the regular state positions, provided there is no break in service. Names of project employees separated by reduction in force actions, who did not leave regular classified positions to accept project employment, will be placed on the reemployment register WAC 356-26-030(9) for the usual life of that register. Project employees who entered the project through the competitive process may have their names placed on the agency reduction in force registers for the classes in which permanent project status was attained. Bumping options will be limited to the project boundaries.

~~((8))~~ (9) The time spent in project employment will also be credited toward periodic increment dates, annual leave, sick leave and other benefits provided to employees in these rules ((and/or as provided in project contracts)).

(10) Project positions lasting more than two years must be converted to regular classified positions, and filled competitively. Agencies shall take steps to transition permanent project employees into classified service. Permanent project employees who were hired through the competitive process will be given permanent status. Permanent project employees who were hired through the noncompetitive service may have their names placed on the reemployment, transfer, and voluntary demotion registers to attempt to transition them into the classified service.

AMENDATORY SECTION (Amending Order 271, filed 2/24/87)

WAC 356-30-330 REDUCTION IN FORCE—REASONS, REGULATIONS—PROCEDURE. (1) The reasons for reduction in force actions and the minimum period of notice are:

(a) Employees may be separated in accordance with the statutes and the agencies' approved reduction in force procedures after at least fifteen calendar days' notice in writing, without prejudice, because of lack of funds or curtailment of work, or good faith reorganization for efficiency purposes, ineligibility to continue in a position which has been reallocated, or when there are fewer positions than there are employees entitled to such positions either by statute or within other provisions of merit system rules.

(b) When employees have statutory and merit system rule rights to return to the classified service and the total number of employees exceeds the number of positions to be filled in the classification, those employees in excess will have the reduction in force rights prescribed in this section.

(2) The agencies shall develop a reduction in force procedure that is consistent with the following:

(a) For purposes of reduction in force (WAC 356-30-330), seniority shall be determined by the definition in WAC 356-05-390. Ties in seniority will be broken by first measuring the employees' last continuous time within their current classification; if the tie still exists, by measuring the employees' last continuous time in their current agency; and if the tie still exists, by lot.

(b) Clearly defined layoff units, either geographically or by administrative units or both, so as to limit the disruption of an agency's total operation; but not to unduly restrict the options available to employees with greater seniority. The definition of layoff units may be a series of progressively larger units within an agency when a valid option in lieu of separation cannot be offered to respective employees within a lesser-sized unit. Employment projects, established under the provisions of WAC 356-30-145, Project employment, are distinct layoff units, separate and exclusive of any other defined layoff unit or employment project. Seasonal career layoff units, established under the provisions of WAC 356-30-130, Seasonal career employment, are distinct layoff units, separate and exclusive of any other defined layoff unit.

(c) Options in lieu of separation by reduction in force shall be offered by an agency only when such options are in accordance with the agency's reduction in force procedure which has been approved by the director of personnel.

(d) Agency reduction in force procedures shall specify the rights and obligations for employees to accept or reject options offered in lieu of separation due to reduction in force.

(e) "Bumping" by employees with greater seniority will be limited to:

- (i) The same layoff unit; and
 - (ii) Classification in which the "bumping" employee previously held permanent status; and
 - (iii) Position at the current salary range of the employee doing the bumping, or lower; and
 - (iv) Employee with the least seniority within the same category of full-time or part-time employment; and
 - (v) Competition at one progressively lower classification at a time.
- (f) An employee may not exercise a bumping option in lieu of separation due to a reduction in force if there is within the agency a vacant position which satisfies all of the criteria set forth below.

The position is one which:

- (i) The agency intends to fill;
- (ii) Is in the current classification of the employee being offered the option, or in a classification within which the employee being offered the option previously held permanent status;
- (iii) Is at a salary range no lower than the range that would have otherwise been a bumping option;
- (iv) Is located within a reasonable commuting distance of the employee's permanent work location; and
- (v) Is on the same or similar workshift as the one which the employee currently holds.

(g) When an employee has previously held permanent status in more than one classification at the same salary range and is eligible to bump, then the employee shall be offered the option to bump into the position occupied by the employee with the least seniority.

(h) The right to actually "bump" shall be exercised only after the employee to be "bumped" has received at least fifteen calendar days' notice of the scheduled action.

(i) Options of full-time positions will be offered first to full-time employees before part-time positions are offered. For the purpose of these offers, employees who previously accepted part-time positions due to a reduction in force action or to lessen the impact of a reduction in force shall be considered full-time employees.

(j) Seniority for part-time employees will be computed on a basic payroll hour basis within the same provision and restrictions of the general definition of seniority. When part-time employees become full-time employees, their payroll hours will be integrated on a comparable time basis as full-time employees.

(k) Permanent employees who have been scheduled for reduction in force shall have the right to take a transfer or a voluntary demotion to a vacancy that is to be filled in their own layoff unit for which they qualify, as determined by the director of personnel. This right is to be exercised according to the seniority of those desiring the same vacancy.

(l) Options of other than permanent positions as named in (m) of this subsection are to be made if no permanent position to be filled is available within a reasonable commuting distance.

(m) The reduction in force procedure shall contain the statement that, "No permanent employee shall be separated from state service through reduction in force without being offered within fifteen calendar days prior to what would be the permanent employee's effective separation those positions at the same or lesser salary range within the layoff unit for which he/she qualifies, currently being held by (~~emergency~~) temporary, (~~provisional~~) probationary, or intermittent employees."

(n) The salary of an employee who has accepted a lower position will be reduced to the top of the range of the lower class unless the previous salary is within the range of the new class, in which case it will remain unchanged.

(3) The agency shall submit the procedure to the director of personnel for approval.

(4) Vacancies will not be filled either by local list procedures or on a (~~provisional~~) temporary, intermittent, or seasonal basis without contacting the department of personnel in an effort to fill the positions by qualified employees who have been or are scheduled for separation due to reduction in force.

(5) When a majority of the positions in a layoff unit other than in project employment is to be eliminated because of a lack of funds

and/or work, permanent employees in such positions shall be offered, according to their seniority, those positions in classes in which they have held permanent status which are currently being held by (~~emergency~~) temporary, (~~provisional~~) or probationary employees; provided they have not rejected offers of vacant positions made by certifications from the registers. Such options shall be offered in accordance with the following requirements:

(a) Positions in the employee's own agency and within a reasonable commuting distance shall be offered first; second, in the classified service within a reasonable commuting distance; third, anywhere within the employee's own agency; and fourth, throughout the classified service.

(b) A permanent employee's right to fill a position may be exercised only within fifteen calendar days prior to the effective date of separation.

(c) Offers will be made in accordance with a procedure established by the director of personnel.

(6) In order to exercise an option to a position which may require selective criteria, the following applies. The option may be exercised only by an employee who possesses the required specialized qualifications when:

(a) The criteria were approved when the position was established, reallocated or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) When, at a subsequent time, it was determined that the position requires the performance of specialized duties that would warrant future selective certification.

(d) In the case of (c) of this subsection, the selective criteria shall not be applied for the purposes of determining reduction in force options until six months after the notification of the new duties has been made to the department of personnel.

(e) In the case of (a), (b) and (c) of this subsection, the director of personnel or designee must have determined that the specialized qualifications are still essential for the successful job performance and the qualifications could not be learned within a reasonable length of time.

(7) Options to positions which are covered by WAC 356-26-140 may be exercised only by employees who, at the time they are notified they are scheduled for reduction in force:

(a) Are exempt from a background inquiry by WAC 356-26-140(4); or

(b) Authorize a background inquiry as provided for in WAC 356-26-140 and are cleared for the option as a result of the inquiry.

AMENDATORY SECTION (Amending Order 250, filed 5/30/86, effective 7/1/86)

WAC 356-47-030 CAREER EXECUTIVE PROGRAM—GENERAL PROVISIONS. (1) No more than one percent of employees covered by chapter 41.06 RCW, the state civil service law, may be placed in the career executive program at one time.

(2) Employees shall not be placed in positions in the career executive program without their prior agreement.

(3) Employees holding temporary (~~acting, emergency, provisional~~) or intermittent appointments to classified career executive positions are not considered to be participants in the career executive program.

(4) Employees shall not be offered reduction in force options or trial service reversion right to positions within the career executive program.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 250, filed 5/30/86, effective 7/1/86)

WAC 356-47-045 CAREER EXECUTIVE PROGRAM—EMPLOYEE SELECTION. (1) The following general provisions apply to placing persons in the career executive program:

(a) Appointments shall be the responsibility of the agency director.

(b) Appointments shall be made in accordance with agency affirmative action plans.

(c) Appointments may be made without regard to established minimum qualifications.

(d) The registers and procedures described in chapter 356-26 WAC shall not apply to the career executive program.

(2) A permanent employee of a classified position that is nominated for inclusion in the career executive program shall, with the employees' consent, automatically move with the position into the program when the position is approved by the personnel board. This provision does not apply to persons holding temporary(~~(-acting, emergency, provisionat,))~~) or intermittent appointments to such positions.

(3) Vacant classified career executive positions shall be filled as follows:

(a) Recruitment may be conducted to fill vacancies. The recruitment plan shall be developed by the appointing agency in consultation with the department of personnel; provided that:

(i) Recruitment shall be conducted if the agency director intends to consider persons who are not permanent state employees.

(ii) The names of applicants who have successfully undergone an eligibility evaluation of managerial qualifications developed and administered by the department of personnel shall be transmitted to the appointing agency. The agency director may consider all eligible names transmitted; or

(b) The agency director may appoint a permanent employee to a vacant position without conducting recruitment: PROVIDED, The candidate has passed the evaluation administered by the department of personnel. Such appointments shall be made in accordance with procedures established by the department of personnel.

(c) Agencies shall notify the director of personnel, or designee, of appointments to career executive positions within fifteen calendar days after the appointment. Such notice shall identify the appointee, the position, and the effective date of appointment.

WSR 88-04-069

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning employee listings, amending WAC 251-14-056;

that the agency will at 9:00 a.m., Friday, March 18, 1988, in the Founder's Room, Main Building, Lower Columbia College, 1600 Maple, Longview, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 17, 1988.

Dated: February 2, 1988

By: J. A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on February 2, 1988, and is filed pursuant to RCW 34.04.025.

Title: WAC 251-14-056 Employee listings.

Description of Purpose: To clarify that an institution is authorized to release employee designated mailing addresses, including home addresses, during an election.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Summary of Rule: The rule as proposed will more clearly specify that an employees' mailing address may be either institutional or noninstitutional and the institution need not ask employees to specify a mailing address for election purposes. These employee addresses will be provided to the appropriate requester without delay.

Reason Supporting Proposed Action: The issue of releasing employee home addresses during elections has created conflicts in the past. This impedes running a smooth election which will be resolved by adopting the modifications proposed.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Higher Education Personnel Board, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is not the result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-14-056 EMPLOYEE LISTINGS. When elections are requested per the provisions of WAC 251-14-040, 251-14-050, 251-14-052 and 251-14-054, institutions shall, upon request from a petitioning party and/or an affected employee organization, provide copies of a current listing indicating names, non-institutional or institutional mailing addresses provided by the employee at the time of hire or subsequently, classes and work locations of all employees eligible to vote in the election.

WSR 88-04-070

PROPOSED RULES

WHATCOM COMMUNITY COLLEGE

[Filed February 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Whatcom Community College intends to adopt, amend, or repeal rules concerning parking and traffic regulations, chapter 132U-116 WAC; and health and safety, chapter 132U-52 WAC;

that the institution will at 1:00 p.m., Tuesday, March 8, 1988, in the Board Room, Laidlaw Center, Whatcom Community College, 237 West Kellogg Road, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 8, 1988.

The authority under which these rules are proposed is RCW 28B.50.130.

The specific statute these rules are intended to implement is RCW 28B.50.140 (10) and (13).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 2, 1988.

Dated: January 7, 1988

By: Wendy Bohlke
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 132U-116 WAC, Parking and traffic regulations; and chapter 132U-52 WAC, Health and safety.

Statutory Authority: RCW 23B.50.130 [28B.50.130].

Specific Statute that Rules are Intended to Implement: Chapter 132U-116 WAC is RCW 28B.50.140(10); and chapter 132U-52 WAC is RCW 28B.50.140(13).

Summary of the Rules: Chapter 132U-52 WAC establishes regulations for control of dogs on campus; and chapter 132U-116 WAC establishes parking and traffic regulations for the college.

Reasons Supporting the Proposed Rules: Rules for dogs on campus and parking regulations are needed now that the college is located in a permanent rather than a temporary facility.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, Old Main 410, WWU, Bellingham, WA 98225, (206) 676-3117; Implementation: Kirk Flanders, Whatcom Community College, 237 West Kellogg Road, Bellingham, WA 98226, (206) 676-2170; and Enforcement: President of Whatcom Community College or his designee.

Name of Person/Organization Proposing the Rule: Whatcom Community College.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: Chapter 132U-52 WAC will establish regulations for the control of dogs on the campus; and chapter 132U-116 WAC gives the college the needed authority to establish parking and traffic rules, which they have not needed until their recent move into a permanent facility.

These rules were adopted on an emergency basis and filed with the code reviser on January 5, 1988, under WSR 88-02-047.

The rules are not necessary to comply with a federal law or a federal or state court decision.

Any Information that may be of Assistance in Identifying the Rules or Their Purpose: None.

Chapter 132U-116

Parking and Traffic Regulations

NEW SECTION

WAC 132U-116-010 AUTHORITY. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Whatcom Community College hereby establishes rules and regulations for vehicular parking on property owned, operated or maintained by the college district.

NEW SECTION

WAC 132U-116-020 PURPOSE. The rules and regulations contained in this chapter are established for the following purposes: (1) to protect and control pedestrian and vehicular traffic on property owned, operated and maintained by the college district.

- (2) To assure access for emergency traffic.
 - (3) To facilitate the operation of the college by assuring access for vehicles.
 - (4) To regulate the use of parking spaces.
- [Statutory authority: RCW 28B.50.140(10)]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-116-030 PARKING AND TRAFFIC REGULATIONS. (1) All students, faculty members and staff at Whatcom Community College may be issued parking permits upon registration or employment with the college may be required to display those permits on their vehicles in a prominent place.

(2) People who come upon the campus as guests, and people who lawfully visit the campus for purposes which are in keeping with the college's role as an institution of higher education may park in the campus visitor parking lot.

(3) Students, faculty, staff and visitors shall obey any signs or painted instructions regarding parking regulations on the campus.

(4) The college reserves the right to have towed from the college premises any abandoned vehicle or any vehicle blocking a fire lane or parked in a handicapped parking space without the appropriate permit.

(5) Cars left in excess of 48 hours will be considered abandoned and may be towed at the expense of the owner.

(6) A student's failure to abide by these regulations shall constitute a conduct violation, subjecting the student to fines as authorized by the board of trustees or to discipline under Chapter 132U-120 WAC.

(7) Faculty, administration or staff members who fail to abide by these regulations shall be subject to discipline under the system appropriate to the employee's status and classification.

[Statutory Authority: RCW 28B.50.140(10)]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Chapter 132U-52

HEALTH AND SAFETY

NEW SECTION

WAC 132U-52-010 CONTROL OF DOGS. Dogs are not permitted in Whatcom Community College buildings or on college property except when they are, (1) seeing-eye dogs, (2) dogs trained for assisting the hearing impaired under immediate control of their owners, or (3) dogs authorized by the Dean of Instruction for educational purposes.

[Statutory authority: RCW 28B.50.140(10)]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 88-04-071

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the amending of chapters 173-160 and 173-162 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 5, 1988.

The authority under which these rules are proposed is RCW 43.21A.080, 43.27A.090(11) and chapter 18.104 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 2, 1988.

This notice is connected to and continues the matter in Notice Nos. WSR 87-20-063, 87-21-039 and 87-24-071 filed with the code reviser's office on October 5, 1987, October 14, 1987, and December 2, 1987.

Dated: February 3, 1988

By: Phillip C. Johnson
Deputy Director

WSR 88-04-072

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning rapeseed production and establishment of districts, chapter 16-570 WAC;

that the agency will at 1:30 p.m., Tuesday, March 8, 1988, in the Ritzville Public Library, 302 West Main, Ritzville, WA 99169, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 18, 1988.

The authority under which these rules are proposed is chapter 15.65 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1988.

Dated: February 3, 1988

By: J. Allen Stine
Assistant Director

STATEMENT OF PURPOSE

Title: Chapter 16-570 WAC, Rapeseed production and establishment of districts.

Description of Purpose: To complete the requirements as stipulated in WAC 16-570-030 (1)(d), specifying the dominant type of rapeseed to be produced.

Statutory Authority: Chapter 15.65 RCW.

Summary of Rule: Will specify the dominant type of rapeseed to be produced in the established production districts 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

Reasons Supporting Proposing Activities: In response to declarations from the referenced rapeseed production districts. WAC 16-570-030 (1)(d) requires districts to petition the director to establish by rule the dominant type rapeseed to be produced in the district. The proposed amendment is designed to fulfill this requirement.

Agency Personnel Responsible: J. Allen Stine, Assistant Director, Commodity Inspection Division, Washington State Department of Agriculture, 406 General Administration Building, AX-41, phone (206) 753-7005.

Person or Organization Proposing Rule Whether Public, Private or Governmental: Washington State Department of Agriculture.

Agency Comments: None.

These rules are not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there will be no economic impact upon small businesses in the state of Washington by the adoption of these new rules.

NEW SECTION

WAC 16-570-040 RULES OF RAPESEED PRODUCTION DISTRICTS. Dominant type rapeseed. The dominant type of rapeseed for duly established production Districts 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 shall be canola, low erucic acid rapeseed - low glucosinolates (learn-ig): PROVIDED, That off-type rapeseed production may be allowed if conditions outlined in WAC 16-570-030 (1)(f) are met.

WSR 88-04-073

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning certification program for producers of organic food. This rule is promulgated pursuant to chapter 15.86 RCW, SHB 353, section 12, chapter 393, Laws of 1987, and is intended to administratively implement that statute;

that the agency will at 1:30 p.m., Tuesday, March 8, 1988, in the Conference Room, Department of Agriculture, Dairy and Food Division, 2747 29th Avenue S.W., Tumwater, WA 98502, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 15.86 RCW.

The specific statute these rules are intended to implement is chapter 15.86 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: February 3, 1988

By: James E. Wommack
Assistant Director

STATEMENT OF PURPOSE

To provide a certification program for producers of organic food under chapter 15.86 RCW.

These rules will govern on-farm visits, recordkeeping requirements, submission of samples for chemical analysis, the collection and dispersal of fees. This program will help promote the sale of organic food.

Agency Contact Person: Verne Hedlund, Chief, Food Inspection Section, Dairy and Food Division, 406 General Administration Building, Olympia, WA 98504, phone (206) 753-5042.

This rule is proposed by the organic food producers.

Agency Comments: None.

These rules are not necessary as a result of federal law, federal or state court action.

Small Business Impact: None.

Chapter 16-156 WAC
ORGANIC PRODUCER CERTIFICATION

WAC

- 16-156-001 Application.
- 16-156-005 Standards for certification.
- 16-156-010 Sampling.
- 16-156-020 Inspection.
- 16-156-030 Certification.
- 16-156-040 Certified producer number.
- 16-156-050 Application for certification.
- 16-156-060 Fee schedule.

NEW SECTION

WAC 16-156-001 APPLICATION. Organic food producers who wish certification under this chapter must submit an application and pay prescribed fees to the department on an annual basis. This application must include a sworn statement that they have over the past year, and will continue throughout the year for which the application is made, fully comply with the statute and rules for production of organic food.

NEW SECTION

WAC 16-156-005 STANDARDS FOR CERTIFICATION. Standards for organic producer certification shall be as set forth in RCW 15.86.030 and WAC 16-154-010 and 16-154-020.

NEW SECTION

WAC 16-156-010 SAMPLING. At least one sample representative of a crop grown by each organic producer under the organic food certification program shall be tested for pesticide residues by the state chemist annually. These samples shall be collected by the department of agriculture in a representative manner at the producer's farm.

It shall be the producer's responsibility to arrange for and bear the costs for any additional testing which is deemed necessary by the director for certification.

NEW SECTION

WAC 16-156-020 INSPECTION. The department of agriculture shall make at least one announced visit and one unannounced visit to each organic producer under the organic food certification program each year for the purpose of inspection for compliance with the standards for certification which are chapter 15.86 RCW (Organic food products) and chapter 16-154 WAC (Rules pertaining to sale of organic foods).

This inspection may entail survey of required records, examination of crops and fields, and any other information deemed necessary to the requirements of this chapter.

It shall be the producer's responsibility to arrange for and bear the costs for any additional inspections which are deemed necessary by the director for certification.

NEW SECTION

WAC 16-156-030 CERTIFICATION. Washington state department of agriculture certification of organic food producers means that analysis of the representative sample taken by the department of agriculture showed no illegal pesticide usage and inspection of the producer by the department of agriculture showed no illegal practices being followed.

Organic food producers who apply under this program will be able to use the words, "produced under Washington state department of agriculture organic food certification program" in their labeling as long as their practices comply with this chapter and chapters 15.86 RCW and 16-154 WAC.

Food produced under this organic food certification program may be identified by the use of the attached logo. This logo shall only be used for food produced under the Washington state department of agriculture organic food certification program.

The logo to identify organic food produced under this certification program shall not be changed except for increases or decreases in size, as appropriate.

NEW SECTION

WAC 16-156-040 CERTIFIED PRODUCER NUMBER. Organic food producers who make application to the certification program shall be assigned a grower identification number by the department of agriculture. All sales from the producer to the first handler shall include the grower number on the invoice and/or other sales document.

NEW SECTION

WAC 16-156-050 APPLICATION FOR CERTIFICATION. Organic food producers who wish to apply for the producer inspection program must apply to the department by April 1, 1988, and thereafter by January 15 of each year. The application and fees shall be forwarded to the department on forms furnished by the department.

Applications made after the set deadline shall be processed as the department can schedule the initial inspections, provided that the producer may still conduct business as provided in RCW 15.86.050.

NEW SECTION

WAC 16-156-060 FEE SCHEDULE. (1) The cost per application shall be based on a sliding scale of gross dollar volume. The fee shall accompany the application.

Information on gross dollar volume shall not be disclosed to unauthorized persons.

Gross Dollar Volume	Fee
\$ 0 - \$ 10,000	\$150.00
\$ 10,000 - \$ 25,000	\$185.00
\$ 25,000 - \$ 50,000	\$350.00
\$ 50,000 - \$ 100,000	\$525.00
\$100,000 and Over	\$600.00

(2) Additional inspections (in addition to two inspections provided for), if required for certification by the director, shall be at \$20/Hr. + 21¢/Mile from the inspector's assigned duty station.

(3) Additional samples (in addition to one sample provided for), if required for certification by the director, shall cost an additional lab fee of one hundred ten dollars. If an additional visit must be arranged, it shall be at \$20/Hr. + 21¢/Mile from the inspector's assigned station.



WSR 88-04-074
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the amending of the minimum functional standards for solid waste handling, chapter 173-304 WAC, to include requirements for closure and postclosure care of solid waste handling facilities.

The Department of Ecology is in the process of amending the state's solid waste regulations (chapter 173-304 WAC) to include a requirement for setting aside sufficient funds in reserve to provide for the proper closure and postclosure care for specified solid waste handling facilities.

A draft of these proposed amendments is available by contacting Randy Martin, Solid and Hazardous Waste Program, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711.

Public hearings on the proposed amendments are scheduled as follows: March 8, 1988, Port of Seattle, Commissioners Chambers, 2201 Alaskan Way South, Pier 66, Seattle, 7:00-9:30 p.m., and on March 9, 1988, Spokane County Health Department, Auditorium, West 1101 College, Spokane, 7:00-9:30 p.m.

The public comment period is scheduled to end on March 14, 1988. The adoption hearing is scheduled for April 5, 1988, at 2:30 p.m. in Room 154 at the Department of Ecology's Headquarters Office. The amendment will become effective 30 days after adoption.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 70.95 RCW.

Dated: February 3, 1988

By: Phil Johnson

Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Permanent rules regarding closure and postclosure care of solid waste landfill facilities, chapter 173-304 WAC.

Description of Purpose: Describes the manner in which ecology will implement the provisions of statutory authority.

Statutory Authority: RCW 70.95.215, Solid waste management—Recovery and recycling.

Summary of Rule: Establishes the requirements for owners and operators of solid wastes landfill facilities for closure and postclosure care. In addition, it provides the financial assurance mechanisms to ensure funds are available to close these facilities when the time arises.

Reasons Supporting Proposed Action: To implement chapter 70.95 RCW.

Agency Personnel Responsible for Drafting: Brett Betts; **Implementation:** Chris Haynes; and **Enforcement:** Local health departments and the Department of Ecology.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: [No information supplied by agency.]

Whether Rule is Necessary as a Result of Federal Law or Federal, or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: No adverse economic impact.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20% of all industries or more than 10% of the businesses in any one industry be reviewed and altered to minimize their impact upon small businesses. The regulatory proposal has been reviewed in light of this requirement. The conclusions of this review are summarized below.

The proposed regulatory action amends the minimum functional standards for solid waste handling to address financial assurance for closure and postclosure care of landfill facilities. The form and content reflect legislative directions contained in RCW 70.95.215. Examination indicates, as those amended regulations become incorporated into facilities operation plans—with the requirement that tipping fees be the revenue source, unless prohibitively high—charges will increase. The exact amount of increase will be unique to each site.

These cost/charge increases will effect two groups: Solid waste generators and owner/operators of solid waste handling facilities. We expect solid waste generators to have their disposal costs increase based upon the amount of waste generated. Thus, the regulation would not seem to place a disproportionate burden upon small business.

Regarding owners/operators of solid waste handling facilities this regulation will cause the costs to increase. However, these funds will be used by the owner/operators during the facilities closure and to maintain the facility for a specified period thereafter. This expense should already be considered and included in charges to customers. In addition, waiver procedures are being developed if tipping fees become prohibitively high. Nonetheless, the operator will still be required to provide another revenue source to provide financial assurance for each solid waste landfill facility.

After careful review, it is judged that this regulatory proposal satisfied the intent of the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-100 **DEFINITIONS.** When used in this regulation, the following terms have the meanings given below.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Buffer zones shall not be considered part of the active area of a facility.

(2) "Agricultural wastes" means wastes on farms resulting from the production of agricultural products including but not limited to manures, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

(3) "Agronomic rates" means the rates of application of sludges, manures, or crop residues in accordance with rates specified by the appropriate fertilizer guide for the crop under cultivation.

(4) "Air quality standard" means a standard set for maximum allowable contamination in ambient air as set forth in chapter 173-400 WAC, General regulations for air pollution sources.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(6) "Ashes" means the residue including any air pollution flue dusts from combustion or incineration of material including solid wastes.

(7) "Balefill" means a landfill which uses compacted bales of solid waste to form discrete lifts as the landfill is filled.

(8) "Buffer zone" means that part of a facility that lies between the active area and the property boundary.

(9) "Bulky waste" means large items of refuse, such as appliances, furniture, and other oversize wastes which would typically not fit into reusable or disposable containers.

(10) "Clean soils and clean dredge spoils" means soils and dredge spoils which are not dangerous wastes or problem wastes as defined in this section.

(11) "Closure" means those actions taken by the owner or operator of a solid waste site or facility to cease disposal operations and to ensure that all such facilities are closed in conformance with applicable regulations at the time of such closures and to prepare the site for the postclosure period.

(12) "Collecting agency" means any agency, business or service operated by a person for the collecting of solid waste.

(13) "Compliance schedule" means a written schedule of required measures in a permit including an enforceable sequence leading to compliance with these regulations.

(14) "Composting" means the controlled degradation of organic solid waste yielding a product for use as a soil conditioner.

(15) "Container" means a device used for the collection, storage, and/or transportation of solid waste including but not limited to reusable containers, disposable containers, detachable containers and tanks, fixed or detachable.

(16) "Contaminate" means to allow to discharge a substance into ground water that would cause:

(a) The concentration of that substance in the ground water to exceed the maximum contamination level specified in WAC 173-304-9901, or

(b) A statistically significant increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contaminant level specified in WAC 173-304-9901, or

(c) A statistically significant increase above background in the concentration of a substance which:

(i) Is not specified in WAC 173-304-9901, and

(ii) Is present in the solid waste, and

(iii) Has been determined to present a substantial risk to human health or the environment in the concentrations found at the point of compliance by the jurisdictional health department in consultation with the department and the department of social and health services.

(17) "Cover material" means soil or other suitable material that has been approved by the jurisdictional health department as cover for wastes.

(18) "Dangerous wastes" means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC.

(19) "Demolition waste" means solid waste, largely inert waste, resulting from the demolition or razing of buildings, roads and other man-made structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (i.e., sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process and asbestos wastes are not considered to be demolition waste for the purposes of this regulation.

(20) "Department" means the department of ecology.

(21) "Detachable containers" means reusable containers that are mechanically loaded or handled such as a "dumpster" or drop box.

(22) "Disposable containers" means containers that are used once to handle solid waste such as plastic bags, cardboard boxes and paper bags.

(23) "Disposal" or "deposition" means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

(24) "Disposal site" means the location where any final treatment, utilization, processing, or deposition of solid waste occurs. See also the definition of interim solid waste handling site.

(25) "Drop box facility" means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site.

(26) "Energy recovery" means the recovery of energy in a useable form from mass burning or refuse derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

(27) "Existing facility" means a facility which is owned or leased, and in operation, or for which construction has begun, on or before the effective date of this regulation and the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss for physical construction of the facility to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of this regulation shall be considered existing facilities.

(28) "Expanded facility" means a facility adjacent to an existing facility for which the land is purchased and approved by the jurisdictional health department after the effective date of this regulation. A vertical expansion approved and permitted by the jurisdictional health department after the effective date of this regulation shall also be considered an expanded facility.

(29) "Facility" means all contiguous land (including buffer zones) and structures, other appurtenances, and improvements on the land used for solid waste handling.

(30) "Facility structures" means buildings, sheds, utility lines, and drainage pipes on the facility.

(31) "Final treatment" means the act of processing or preparing solid waste for disposal, utilization, reclamation, or other approved method of use.

(32) "Free liquids" means any sludge which produces measurable liquids when the Paint Filter Liquids Test, Method 9095 of EPA Publication Number SW-846, is used.

(33) "One hundred year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source.

(34) "Garbage" means unwanted animal and vegetable wastes and animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, swill and carcasses of dead animals, and of such a character and proportion as to be capable of attracting or providing food for vectors, except sewage and sewage sludge.

(35) "Ground water" means that part of the subsurface water which is in the zone of saturation.

(36) "Holocene fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side and that has occurred in the most recent epoch of the quaternary period extending from the end of the pleistocene to the present.

(37) "Incineration" means reducing the volume of solid wastes by use of an enclosed device using controlled flame combustion.

(38) "Interim solid waste handling site" means any interim treatment, utilization or processing site engaged in solid waste handling which is not the final site of disposal. Transfer stations, drop boxes, baling and compaction sites, source separation centers, and treatment are considered interim solid waste handling sites.

(39) "Industrial solid wastes" means waste by-products from manufacturing operations such as scraps, trimmings, packing, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC.

(40) "Inert wastes" means noncombustible, nondangerous solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack and chemical attack from acidic rainwater.

(41) "Jurisdictional health department" means city, county, city-county or district public health department.

(42) "Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

(43) "Landspreading disposal facility" means a facility that applies sludges or other solid wastes onto or incorporates solid waste into the soil surface at greater than vegetative utilization and soil conditioners/immobilization rates.

(44) "Leachate" means water or other liquid that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases therefrom.

(45) "Local fire control agency" means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

(46) "Lower explosive limits" means the lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five degrees centigrade and atmospheric pressure.

(47) "Medical waste" means all the infectious, and injurious waste originating from a medical, veterinary, or intermediate care facility.

(48) "New facility" means a facility which begins operation or construction after the effective date of this regulation (see also definition of "existing facility").

(49) "Nonconforming site" means a solid waste handling facility which does not currently comply with the facility requirements of WAC 173-304-400 but does comply with a compliance schedule issued in a solid waste permit by the jurisdictional health department.

(50) "Nuisance" consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures, or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

(51) "Open burning" means the burning of solid waste materials in an open fire or an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(52) "Performance standard" means the criteria for the performance of solid waste handling facilities.

(53) "Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(54) "Permit" means an authorization issued by the jurisdictional health department which allows a person to perform solid waste activities at a specific location and which includes specific conditions for such facility operations.

(55) "Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(57) "Plan of operation" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life and during closure and postclosure.

(58) "Point of compliance" means that part of ground water that lies beneath the perimeter of a solid waste facilities' active area as that active area would exist at closure of the facility.

(59) "Postclosure" means the requirements placed upon disposal facilities after closure to ensure their environmental safety for at least a ((number of years after closure)) twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production, or leachate generation).

(60) "Premises" means a tract or parcel of land with or without habitable buildings.

(61) "Problem wastes" means: (a) Soils removed during the cleanup of a remedial action site, or a dangerous waste site closure or other cleanup efforts and actions and which contain harmful substances but are not designated dangerous wastes, or (b) dredge spoils resulting from the dredging of surface waters of the state where contaminants are present in the dredge spoils at concentrations not suitable for open water disposal and the dredge spoils are not dangerous wastes and are not regulated by section 404 of the Federal Clean Water Act (PL 95-217).

(62) "Processing" means an operation to convert a solid waste into a useful product or to prepare it for disposal.

(63) "Putrescible waste" means solid waste which contains material capable of being decomposed by micro-organisms.

(64) "Pyrolysis" means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.

(65) "Reclamation site" means a location used for the processing or the storage of recycled waste.

(66) "Reusable containers" means containers that are used more than once to handle solid waste such as garbage cans.

(67) "Run-off" means any rainwater, leachate or other liquid which drains over land from any part of the facility.

(68) "Run-on" means any rainwater or other liquid which drains over land onto any part of a facility.

(69) "Scavenging" means the removal of materials at a disposal site, or interim solid waste handling site without the approval of the owner or operator and the jurisdictional health department.

(70) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

(71) "Sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a wastewater treatment plant or other source.

(72) "Sole source aquifer" means an aquifer designated by the Environmental Protection Agency pursuant to Section 1424e of the Safe Drinking Water Act (PL 93-523).

(73) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid, materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.

(74) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.

(75) "Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

(76) "Storage" means the holding of solid waste materials for a temporary period.

(77) "Twenty-five year storm" means a storm of a particular duration and of such an intensity that it has a four percent probability of being equalled or exceeded each year.

(78) "Twenty-four hour, twenty-five year storm" means a twenty-five year storm of twenty-four hours duration.

(79) "Stream" means the point at which any confined freshwater body of surface water reaches a mean annual flow of twenty cubic feet per second.

(80) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquids or sludges. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

(81) "Surface water" means all lakes, rivers, ponds, streams, inland waters, salt waters and all other water and water courses within the jurisdiction of the state of Washington.

(82) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling facility. Transfer stations may also include recycling facilities.

(83) "Treatment" means the physical, chemical or biological processing of solid waste to make such solid wastes safer for storage or disposal, amenable for energy or material resource recovery or reduced in volume.

(84) "Utilization" means consuming, expending, or exhausting by use, solid waste materials.

(85) "Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

(86) "Vector" means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

(87) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream.

(88) "Waste reduction" means reducing the amount or type of waste generated.

(89) "Water quality standard" means a standard set for maximum allowable contamination in surface waters as set forth in chapter 173-201 WAC, Water quality standards for waters of the state of Washington.

(90) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, estuaries, and similar areas.

(91) "Woodwaste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes but is not limited to sawdust, chips, shavings, bark, pulp, hog fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

(92) "Zone of saturation" means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

(93) "Buy-back recycling center" means any facility which collects, receives, or buys recyclable materials from household, commercial, or industrial sources for the purpose of accumulating, grading, or packaging recyclable materials for subsequent shipment and reuse, other than direct application to land.

(94) "Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present.

(95) "Industrial wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of industrial wastewater.

(96) "Liquid" means a substance that flows readily and assumes the form of its container but retains its independent volume.

(97) "Reserved" means a section having no requirements and which is set aside for future possible rule-making as a note to the regulated community.

(98) "Limited purpose landfills" means a landfill that receives solid waste of limited types, known and consistent composition, other than woodwastes, garbage, inert waste, and demolition waste.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-400 SOLID WASTE HANDLING FACILITY STANDARDS. (1) Applicability. The standards of WAC 173-304-405 through 173-304-490 are the solid waste handling facility standards and apply to all solid waste handling facilities, except for:

(a) Waste recycling facilities, whose standards are spelled out in WAC 173-304-300;

(b) On-site containerized storage, collection and transportation facilities which are spelled out in WAC 173-304-200;

(c) Single family residences and single family farms whose year round occupants engage in solid waste handling of the single family's solid waste on-site;

(d) Problem wastes as defined in WAC 173-304-100;

(e) Solid waste handling facilities that have engaged in closure and closed before the effective date of this regulation; and

(f) Domestic wastewater facilities and industrial wastewater facilities otherwise regulated by federal, state, or local water pollution permits except for any portion that utilizes or engages in landspreading disposal sludges or solid residues directly on the land.

(2) Standards for permits. The standards of WAC 173-304-405 through 173-304-490 shall be used as the basis for permitting as required in WAC 173-304-600.

(3) Effective dates.

(a) All existing facilities not in conformance with the following sections of the facility standards shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure full compliance within eighteen months of the effective date of this regulation for:

(i) The general facility standards, WAC 173-304-405;

(ii) The transfer stations, baling and compaction standards, WAC 173-304-410;

(iii) Ground water monitoring required in WAC 173-304-490;

(iv) The landfill operating and maintenance standards, WAC 173-304-460(4);

(v) The tire pile standards of WAC 173-304-420(4); and

(vi) The landspreading disposal standards of WAC 173-304-450(5).

(b) All applicable solid waste facilities shall be in compliance with the general closure and postclosure standards of WAC 173-304-407 and the financial assurance standards of WAC 173-304-467 by October 27, 1988, except for owners or operators of existing facilities that have a closure plan approved by the jurisdictional health department in a solid waste permit issued before the effective date of these amendments and are closing before November 27, 1989. Existing solid waste facilities shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure compliance by the effective date of this subsection.

(c) All existing solid waste facilities not in conformance with facility standards other than those in (a) and (b) of this subsection shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure full compliance within four years of the effective date of this regulation.

~~((c))~~ (d) All new and expanded facilities other than those in (b) of this subsection shall meet the facility standards of WAC 173-304-405 to 173-304-490 after the effective date of this regulation.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-405 GENERAL FACILITY REQUIREMENTS. (1) Applicability. All applicable solid waste handling facilities shall meet the requirements of this section.

(2) Plan of operation. Each owner or operator shall develop, keep and abide by a plan of operation approved as part of the permitting process in WAC 173-304-600. The plan shall describe the facilities' operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health officer. The facility must be operated in accordance with the plan or the plan must be so modified with the approval of the jurisdictional health department. Owners or operators of drop boxes may develop a generic plan of operation applicable to all such drop boxes, owned or operated.

Each plan of operation shall include:

(a) How solid wastes are to be handled on-site during its active life;

~~((b))~~ (b) ~~How the facility will be closed and, for land disposal facilities, how postclosure will be carried out;~~

~~((c))~~ (c) How inspections and monitoring are conducted and their frequency;

~~((d))~~ (d) Actions to take if there is a fire or explosion;

~~((e))~~ (e) Actions to take if leaks are detected;

~~((f))~~ (f) Corrective action programs to take if ground water is contaminated;

~~((g))~~ (g) Actions to take for other releases (e.g. failure of run-off containment system);

~~((h))~~ (h) How equipment such as leachate collection and gas collection equipment are to be maintained;

~~((i))~~ (i) A safety plan or procedure; and

~~((j))~~ (j) Other such details as required by the jurisdictional health department.

(3) Recordkeeping. Each owner or operator shall maintain daily operating records on the weights (or volumes), number of vehicles entering and, if available, the types of wastes received. Major deviations from the plan of operation shall also be noted on the operating record.

(4) Reporting. Each owner or operator shall prepare and submit a copy of an annual report to the jurisdictional health department and the department by March 1 of each year. The annual report shall cover facility activities during the previous year and must include the following information:

(a) Name and address of the facility;

(b) Calendar year covered by the report;

(c) Annual quantity, in tons, or volume, in cubic yards, and estimated in-place density in pounds per cubic yard of solid waste handled, by type of solid waste if available, for each type of treatment,

storage, or disposal facility, including applicable recycling facilities; and

(d) Results of ground water monitoring required in WAC 173-304-490.

(5) Inspections. The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors and discharges which may cause or lead to the release of wastes to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and the handwritten signature of the inspector, a notation of observations made and the date and nature of any repairs or corrective action. The log or summary must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the jurisdictional health department upon request.

~~(6) ((Closure. Each owner or operator shall close the facility according to plans spelled out in the plan of operation. Solid waste facilities shall be restored by the owner or operator to be as compatible as possible with the surrounding environs following the closure. Closure includes but is not limited to grading, seeding, landscaping, contouring, and screening. For interim solid waste handling sites, closure includes waste removal and decontamination. For disposal facilities, postclosure includes ground water monitoring and gas monitoring, the maintenance of the site for its intended use, and other activities deemed appropriate by the jurisdictional health department until the site becomes stabilized (i.e. little or no settlement, gas production or leachate generation) and monitoring ground water and gases can be safely discontinued.~~

(7)) Recording with county auditor. Maps and a statement of fact concerning the location of the disposal site shall be recorded as part of the deed with the county auditor not later than three months after closure. Records and plans specifying solid waste amounts, location and periods of operation shall be submitted to the local zoning authority or the authority with jurisdiction over land use and be made available for inspection.

~~((#))~~ (7) State and local requirements. All solid waste disposal facilities shall comply with all state and local requirements such as zoning land use, fire protection, water pollution prevention, air pollution prevention, nuisance and aesthetics.

NEW SECTION

WAC 173-304-407 GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS. (1) Applicability. The requirements of subsections (2), (3), (4), and (5) of this section apply to all solid waste handling facilities. The requirements of subsections (6), (7), and (8) of this section apply to:

(a) Landfills subject to WAC 173-304-460 including limited purpose landfills under WAC 173-304-460(5);

(b) Surface impoundments under WAC 173-304-430 (2)(g) closed with the waste remaining in place;

(c) Inert waste and demolition waste landfills under WAC 173-304-461;

(d) Woodwaste landfills under WAC 173-304-462; and

(e) Landspreading disposal facilities under WAC 173-304-450(2).

(2) Effective dates. Existing facilities subject to the requirements of this section shall meet the applicable facility standards of this section within twelve months of the effective date of this regulation. All new and expanded facilities subject to the requirements of this section shall meet the applicable facility standards on the effective date of this regulation.

(3) Closure performance standard. Each owner and operator shall close their facility in a manner that:

(a) Minimizes the need for further maintenance;

(b) Controls, minimizes, or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated rainfall or waste decomposition products to the ground, ground water, surface water, and the atmosphere; and

(c) Prepares the facility for the post-closure period.

(4) Closure plan and amendment. Closure as defined in WAC 173-304-100(11), includes but is not limited to grading, seeding, landscaping, contouring, and screening. For interim solid waste handling sites, closure includes waste removal and decontamination of the site.

(a) Each owner or operator shall develop, keep and abide by a plan of closure approved by the jurisdictional health department as part of the permitting process in WAC 173-304-600.

(b) The closure plan shall project time intervals at which sequential partial closure is to be implemented, and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument, where applicable.

(c) Each owner or operator shall not commence disposal operations in any part of a facility until a closure plan for the entire facility has been approved by the jurisdictional health department, and until a financial assurance instrument has been provided where applicable, as required by WAC 173-304-467.

(d) The jurisdictional health department may determine at its discretion that a facility closure plan is invalid and require an owner or operator to amend the facility closure plan, including:

(i) The health department may direct at its discretion facility operation or closure activities to cease in part or whole until the facility closure plan has been amended and has received written approval by the health department.

(ii) When the health department determines that a facility closure plan amendment is required, the health department shall designate a compliance schedule for submittal of the amendment, its review and approval by the health department.

(e) Each owner or operator shall close the facility in accordance with the approved closure plan and all approved amendments.

(5) Closure procedures.

(a) Each owner or operator shall notify the jurisdictional health department and where applicable, the financial assurance instrument trustee, of the intent to implement the closure plan in part or whole, no later than one hundred eighty days prior to the projected final receipt of waste at part of or at the entire facility.

(b) The owner or operator shall commence implementation of the closure plan in part or whole within thirty days after receipt of a final volume of waste and/or attaining the final landfill elevation at part of or at the entire facility as identified in the approved facility closure plan.

(c) Waste shall not be accepted for disposal or for use in closure except as identified in the closure plan approved by the jurisdictional health department, as required in subsection (3)(a) of this section.

(d) When facility closure is completed in part or whole, each owner or operator shall submit the following to the jurisdictional health department and the department of ecology:

(i) Facility closure plan sheets signed by a professional engineer registered in the state of Washington and modified as necessary to represent as-built changes to final closure construction as approved in the closure plan;

(ii) An affidavit signed by the owner or operator, and a professional engineer registered in the state of Washington that the site has been closed in accordance with the approved closure plan.

(e) When the jurisdictional health department finds the facility has been closed in accordance with the specifications of the approved closure plan, and the closure requirements of this section, the jurisdictional health department shall:

(i) Issue a certificate of closure for the site to the owner or operator and the department of ecology; and

(ii) Notify the owner or operator and the department of ecology that the facility post-closure period has begun in part or whole on a specified date.

(6) Post-closure performance standard. Each owner or operator shall provide post-closure activities to allow for continued facility maintenance and monitoring of air, land and water as long as necessary for the facility to stabilize and to protect human health and the environment.

(7) Post-closure plan and amendment. For disposal facilities, post-closure includes ground water monitoring, surface water monitoring, gas monitoring, maintenance of the facility, facility structures and monitoring systems for their intended use, and other activities deemed appropriate by the jurisdictional health department.

(a) Each owner or operator shall develop, keep and abide by a post-closure plan approved as a part of the permitting process in WAC 173-304-600. The post-closure plan shall address facility maintenance and monitoring activities for at least a twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production or leachate generation) and monitoring ground water, surface water, and gases can be safely discontinued.

(b) The post-closure plan shall project time intervals at which post-closure activities are to be implemented, and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post-closure costs.

(c) Each owner or operator shall not commence disposal operations in any part of a facility until a post-closure plan for the entire facility has been approved by the jurisdictional health department, and until a financial assurance instrument has been provided where applicable, as required by WAC 173-304-467.

(d) Each owner or operator shall complete the post-closure activities in accordance with the approved post-closure plan and schedules. Facility post-closure activities must be completed in accordance with the approved post-closure plan or the plan must be so amended with the approval of the jurisdictional health department.

(e) The jurisdictional health department may determine at its discretion that a facility post-closure plan is invalid and require an owner or operator to amend the facility closure plan.

(i) The health department may direct at its discretion facility post-closure activities, in part or whole, to cease until the post-closure plan amendment has received written approval by the health department.

(ii) When the health department determines that a facility post-closure plan amendment is required, the health department shall designate a compliance schedule for submittal of the amendment and its review and approval by the department.

(8) Post-closure procedures.

(a) Each owner or operator shall commence post-closure activities after completion of closure activities outlined in subsection (5)(d)(i) and (ii) of this section. The jurisdictional health department may direct that post-closure activities cease until the owner or operator has received the department's certification of closure and a notice to proceed with post-closure activities.

(b) When post-closure activities are complete, the owner or operator shall submit an affidavit to the jurisdictional health department, signed by the owner or operator, and a professional engineer registered in the state of Washington stating why post-closure activities are no longer necessary (i.e., little or no settlement, gas production, or leachate generation).

(c) If the jurisdictional health department finds that post-closure activities have established that the facility is stabilized (i.e., little or no settlement, gas production, or leachate generation), the health department may at its discretion authorize the owner or operator to discontinue post-closure maintenance and monitoring activities. The jurisdictional health department shall certify the end of the post-closure care period by issuance of a certificate of post-closure completion to the facility owner or operator and the department of ecology.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-430 SURFACE IMPOUNDMENT STANDARDS. (1) Applicability.

(a) These standards are applicable to solid wastes that are liquids or sludges containing free liquids as defined in WAC 173-304-100 and applicable under WAC 173-304-015(2) and are stored or treated in surface impoundments;

(b) These standards are also applicable to sludges and septage stored or treated in surface impoundments; and

(c) These standards are not applicable to:

(i) Surface impoundments whose facilities and discharges are otherwise regulated under federal, state, or local water pollution permits; and

(ii) Retention or detention basins used to collect and store stormwater runoff.

(2) Requirements. All surface impoundments must be designed, constructed, and operated so as to:

(a) Meet the performance standards of WAC 173-304-460(2);

(b) Have an in-place or imported soil liner of at least two feet of 1×10^{-7} cm/sec permeability or an equivalent combination of any thickness greater than two feet and a greater permeability to protect the underlying aquifers or a thirty mil reinforced artificial liner placed on top of a structurally stable foundation to support the liners and solid waste and to prevent settlement that would destroy the liner; natural soils shall be recompacted to achieve an equivalent permeability. Owners or operators shall be allowed to use alternative designs, operating practices and locational characteristics which prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;

(c) Avoid washout including the use of an extended liner or dikes or restriction of flow in the one hundred year floodplain and to comply with local floodplain management ordinances and chapter 508-60 WAC, Administration of flood control zones;

(d) Have dikes designed with slopes so as to maintain the structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action;

(e) Have the freeboard equal to or greater than eighteen inches to avoid overtopping from wave action, overflowing, or precipitation;

(f) Have either a ground water monitoring system, or a leachate detection, collection and treatment system, for surface impoundments having a capacity of more than two million gallons unless the jurisdictional health department and the department require either for smaller surface impoundments. For purposes of this subsection, capacity refers to the total capacity of all surface impoundments on-site (i.e., two, one million gallon surface impoundments on one site will trigger these monitoring requirements);

(g) Be closed in a manner which removes all solid wastes including liners, etc. to another permitted facility and the site returned to its original or acceptable topography except that surface impoundments closed with the waste remaining in place shall meet the requirements of WAC ((173-304-460(5))) 173-304-407 and 173-304-130;

(h) A jurisdictional health department may require that the liner be inspected for wear and integrity and repaired or replaced by removing stored solid wastes or otherwise inspecting the liner or base at any time. The request shall be in writing and cite the reasons including valid ground water monitoring or leachate detection data leading to such an inspection and repair;

(i) Surface impoundments containing septage will also be subject to the department's "criteria for sewage works design" used to review plans for septage surface impoundments; and

(j) Surface impoundments that have the potential to impound more than ten acre-feet of waste measured from the top of the dike and which would be released by a failure of the containment dike shall be reviewed and approved by the dam safety section of the department.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-450 LANDSPREADING DISPOSAL STANDARDS. (1) Applicability. These standards apply to facilities that engage in landspreading disposal of solid wastes. These standards do not apply to:

(a) Facilities utilizing sludge, woodwaste or other primarily organic sludges according to the Municipal and Domestic Sludge Utilization Guidelines WDOE 82-11, specified in WAC 173-304-300 (4) and (5);

(b) Agricultural solid wastes resulting from the operation of a farm including farm animal manure and agricultural residues; and

(c) Inert wastes and demolition wastes.

(2) Owners or operators of landspreading disposal facilities shall meet the minimum functional standards for performance of WAC 173-304-460(2) and the general facilities standards of WAC 173-304-405.

(3) Owners or operators of landspreading disposal facilities shall meet the locational standards of WAC 173-304-130.

(4) Minimum functional standard for design. Owners or operators of landspreading disposal facilities shall design landspreading facilities so as to:

(a) Provide interim waste storage facilities that meet the requirements of WAC 173-304-400 standards (i.e., for piles, surface impoundments, etc.);

(b) Collect and treat all run-off from a twenty-four hour, twenty-five year storm, and divert all run-on for the maximum flow of a maximum twenty-five year storm around the active area;

(c) Avoid standing water anywhere on the active area;

(d) Avoid slopes and other features that will lead to soil and waste erosion, unless contour plowing or other measures are taken to avoid erosion;

(e) Monitor ground water according to WAC 173-304-490; and

(f) Control access to site by fencing or other means and erect signs.

(5) Minimum functional standards for maintenance and operation. Owners or operators of landspreading disposal facilities shall maintain and operate the facilities so as to:

(a) Avoid any landspreading disposal of garbage or medical waste;

(b) Analyze solid wastes according to the requirements spelled out in the Municipal and Domestic Sludge Utilization Guidelines WDOE 82-11;

(c) Avoid applying wastes at rates greater than ten times agronomic rates using the proposed cover crop, or depths greater than would allow for discing the soil by tracked vehicles;

(d) Provide discing of soils during the growing season and after each application of waste to maintain aerobic soil conditions, minimize odors and lessen run-off;

(e) Avoid applying waste to any active area having standing water;

(f) Conform to the operating plan and the requirements of WAC 173-304-405;

(g) Avoid food chain crops during the active life of the facility and until demonstrated to be safe, after closure, according to the closure and postclosure plans filed with the plan of operation. Specific approval in writing from the jurisdictional health department is required for any landspreading disposal facility that is used to raise food crops after closure. Any new owner or operator of a closed landspreading disposal facility shall notify the jurisdictional health department within sixty days of the purchase; and

(h) Provide for a written contract between landowners, waste generators, waste haulers and waste operators requiring compliance with rules as a condition of the contract.

(6) Minimum functional standards for closure.

(a) All owners or operators of landspreading disposal facilities shall close in such a manner as to comply with WAC (~~(173-304-405(6))~~) 173-304-407;

~~(b) (All owners or operators of landspreading facilities shall also close such facilities in a manner that:~~

~~(i) Minimizes the need for further maintenance;~~

~~(ii) Controls, minimizes or eliminates, to the extent necessary, threats to human health and the environment, postclosure escape of solid waste, constituents, leachate, contaminated rainfall or waste decomposition products to the ground, surface water, ground water or the atmosphere;~~

~~(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible; and~~

~~(iv) Allows for continued monitoring of all media (air, land and water) as long as necessary to protect human health and the environment during the postclosure period;~~

~~(c)) Financial assurance. All owners or operators of landspreading disposal facilities shall have a written estimate, in current dollars, of the cost of closing the facility. The closure cost estimate must equal the cost of closure at the point in the operating life of the facility when the extent and manner of operation would make closure the most expensive, as indicated by the closure plan.~~

In addition, all facilities shall have a written postclosure estimate, in current dollars, the cost of postclosure monitoring and maintenance during the postclosure period.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-460 LANDFILLING STANDARDS. (1) Applicability. These standards apply to facilities that dispose of solid waste in landfills except for:

(a) Inert wastes and demolition wastes landfills, that must meet WAC 173-304-461 standards; and

(b) Woodwaste landfills that must meet WAC 173-304-462 standards.

(2) Minimum functional standards for performance.

(a) Ground water. An owner or operator of a landfill shall not contaminate the ground water underlying the landfill, beyond the point of compliance. Contamination and point of compliance are defined in WAC 173-304-100.

(b) Air quality and toxic air emissions.

(i) An owner or operator of a landfill shall not allow explosive gases generated by the facility whose concentration exceeds:

(A) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components);

(B) The lower explosive limit for the gases at the property boundary or beyond; and

(C) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures.

(ii) An owner or operator of a landfill shall not cause a violation of any ambient air quality standard at the property boundary or emission standard from any emission of landfill gases, combustion or any other emission associated with a landfill.

(c) Surface waters. An owner or operator of a landfill shall not cause a violation of any receiving water quality standard or violate

chapter 90.48 RCW from discharges of surface run-off, leachate or any other liquid associated with a landfill.

(3) Minimum functional standards for design.

(a) Minimizing liquids. All owners or operators of landfills shall minimize liquids admitted to active areas of landfills by:

(i) Covering according to WAC 173-304-460 (4)(d);

(ii) Prohibiting the disposal of noncontainerized liquids or sludges containing free liquids in landfills unless approved by the jurisdictional health department;

(iii) Designing the landfill to prevent all the run-on of surface waters and other liquids resulting from a maximum flow of a twenty-five year storm into the active area of the landfill;

(iv) Designing the landfill to collect the run-off of surface waters and other liquids resulting from a twenty-four hour, twenty-five year storm from the active area and the closed portions of a landfill;

(b) Leachate systems. All owners or operators of landfills shall:

(i) Install a leachate collection system sized according to water balance calculations or using other accepted engineering methods either of which shall be approved by the jurisdictional health department;

(ii) Install a leachate collection system so as to prevent no more than two feet of leachate developing at the topographical low point of the active area; and

(iii) Install a leachate treatment, or a pretreatment system if necessary in the case of discharge to a municipal waste water treatment plant, to meet the requirements for permitted discharge under chapter 90.48 RCW and the Federal Clean Water Act (PL 95-217).

(c) Liner designs. All owners or operators of landfills shall use liners of one of the following designs:

(i) Standard design. The liner shall be constructed of at least a four feet thick layer of recompacted clay or other material with a permeability of no more than 1×10^{-7} cm/sec and sloped no less than two percent; or

(ii) Alternative design. The design shall have two liners:

(A) An upper liner of at least fifty mils thickness made of synthetic material; and

(B) A lower liner of at least two feet thickness of recompacted clay or other material with a permeability of no more than 1×10^{-6} cm/sec and sloped no less than two percent; or

(iii) Equivalent design. The design shall use alternative methods, operating practices and locational characteristics which will minimize the migration of solid waste constituents or leachate into the ground or surface water at least as effectively as the liners of (c)(i) and (ii) of this subsection; or

(iv) Arid design. This design will apply to locations having less than twelve inches of precipitation annually, and, in lieu of (c)(i), (ii), and (iii) of this subsection, shall consist of vadose zone moisture monitoring, provided that:

(A) Waste material is no less than ten feet above the seasonal high level of ground water in the uppermost aquifer; and

(B) Any evidence of leachate or waste constituents detected in the vadose zone that violates or could be expected to violate the performance standard of WAC 173-304-460(2) shall cause the owner or operator to:

(I) Take corrective action, and either

(II) Close the facility according to these rules, or

(III) For all future expansions at that facility, meet the liner requirement of (c)(i) or (ii) of this subsection.

(v) Small landfill designs. For a landfill whose design and permit allow a total capacity at closure of two hundred thousand cubic yards or less, the need for a liner and leachate collection system shall be determined on a case-by-case basis by the jurisdictional health department in consultation with the department.

(d) Floodplains. All owners or operators of landfills that are located in a one hundred year floodplain shall:

(i) Comply with local floodplain management ordinances and chapter 508-60 WAC, Administration of flood control zones; and

(ii) Design the landfill so that the landfill entrance or exit roads or practices shall not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain or result in washout of solid waste, so as to pose a hazard to human life, wildlife, land or water resources.

(e) Closure. All owners and operators shall design landfills so that at closure:

(i) At least two feet of 1×10^{-6} cm/sec or lower permeability soil or equivalent shall be placed upon the final lifts unless the landfill is located in an area having mean annual precipitation of less than twelve

inches in which case at least two feet of 1×10^{-5} cm/sec or lower permeability soil or equivalent shall be placed upon the final lifts. Artificial liners may replace soil covers provided that a minimum of fifty mils thickness is used;

(ii) The grade of surface slopes shall not be less than two percent, nor the grade of side slopes more than thirty-three percent; and

(iii) Final cover of at least six inches of topsoil be placed over the soil cover and seeded with grass, other shallow rooted vegetation or other native vegetation.

(f) Gas control.

(i) All owners and operators shall design landfills, having a permitted capacity of greater than ten thousand cubic yards per year, so that methane and other gases are continuously collected, and

(A) Purified for sale;

(B) Flared; or

(C) Utilized for its energy value.

(ii) Collection and handling of landfill gases shall not be required if it can be shown that little or no landfill gases will be produced or that landfill gases will not support combustion; in such cases installation of vents shall be required.

(g) Other requirements. All owners and operators of landfills shall design landfills to:

(i) Be fenced at the property boundary or use other means to impede entry by the public and animals. A lockable gate shall be required at the entry to the landfill;

(ii) Monitor ground water according to WAC 173-304-490 using a design approved by the local jurisdictional health department with the guidance of the department. The jurisdictional health department may also require monitoring of:

(A) Surface waters, including run-off;

(B) Leachate;

(C) Subsurface landfill gas movement and ambient air; and

(D) Noise.

(iii) Weigh all incoming waste on scales for landfills having a permitted capacity of greater than ten thousand cubic yards per year or provide an equivalent method of measuring waste tonnage capable of estimating total annual solid waste tonnage to within plus or minus five percent;

(iv) Provide for employee facilities including shelter, toilets, hand washing facilities and potable drinking water for landfills having the equivalent of three or more full-time employees;

(v) Erect a sign at the site entrance that identifies at least the name of site, if applicable, the hours during which the site is open for public use, unacceptable materials and an emergency telephone number. Other pertinent information may be required by the jurisdictional health department;

(vi) Provide on-site fire protection as determined by the local and state fire control jurisdiction;

(vii) Prevent potential rat and other vectors (such as insects, birds, and burrowing animals) harborages in buildings, facilities, and active areas;

(viii) Provide the unloading area(s) to be as small as possible, consistent with good traffic patterns and safe operation;

(ix) Provide approach and exit roads to be of all-weather construction, with traffic separation and traffic control on-site, and at the site entrance; and

(x) Provide communication between employees working at the landfill and management offices on-site and off-site (such as telephones) to handle emergencies.

(4) Minimum functional standards for maintenance and operation.

(a) Operating plans. All owners or operators of landfills shall maintain and operate the facility so as to conform to the approved plan of operation.

(b) Operating details. All owners or operators of landfills shall operate the facility so as to:

(i) Control road dust;

(ii) Perform no open burning unless permitted by the jurisdictional air pollution control agency or the department under the Washington Clean Air Act, chapter 70.94 RCW. Garbage shall not be open burned.

(iii) Collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance;

(iv) Prohibit scavenging;

(v) Conduct on-site reclamation in an orderly sanitary manner, and in a way that does not interfere with the disposal site operation;

(vi) Insure that at least two landfill personnel are on-site with one person at the active face when the site is open to the public for landfills

with a permitted capacity of greater than fifty thousand cubic yards per year;

(vii) Control insects, rodents and other vectors; and

(viii) Insure that reserve operational equipment shall be available to maintain and meet these standards.

(c) Boundary posts. All owners or operators of landfills shall clearly mark the active area boundaries authorized in the permit, with permanent posts or using equivalent method clearly visible for inspection purposes.

(d) Compaction and daily cover. All owners or operators of landfills shall:

(i) Thoroughly compact the solid waste before succeeding layers are added; and

(ii) Cover compacted waste containing garbage fully with at least six inches of compacted cover material after each day of operation. The jurisdictional health department may allow less frequent covering by considering:

(A) The characteristics of the solid waste;

(B) The climatic and geologic setting;

(C) The size of the facility; and

(D) The potential for nuisance conditions.

(e) Monitoring systems. All owners and operators of landfills shall maintain the monitoring system required in subsection (3)(g)(ii) of this section.

(f) Recycling required.

(i) All owners or operators of landfills at which the general public delivers household solid waste shall provide the opportunity for the general public to recycle cans, bottles, paper and other material for which a market exists and brought to the landfill site:

(A) During the normal hours of operation;

(B) In facilities convenient to the public (i.e., near entrance to the gate).

(ii) Owners or operators may demonstrate alternative means to providing an opportunity to the general public to recycle household solid waste.

(g) Disposal of dangerous waste prohibited. Owners or operators of landfills shall not knowingly dispose, treat, store, or otherwise handle dangerous waste unless the requirements of the dangerous waste regulation, chapter 173-303 WAC are met.

(5) ~~(Minimum functional standards for closure and postclosure:~~

~~(a) All owners or operators of landfills shall close landfills in such a manner as to comply with WAC 173-304-405(6):~~

~~(b) All owners or operators of landfills shall close landfills in a manner that:~~

~~(i) Minimizes the need for further maintenance;~~

~~(ii) Controls, minimizes or eliminates to the extent necessary threats to human health and the environment from postclosure escape of solid waste constituents, leachate, landfill gases, contaminated rainfall or waste decomposition products to the ground, surface water, ground water or the atmosphere;~~

~~(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible; and~~

~~(iv) Allows for continued monitoring of all media (air, land and water) as long as necessary for the waste to stabilize and to protect human health and the environment.~~

~~(c) All owners or operators of landfills must have a written estimate, in current dollars, of the cost of closing the facility. The closure cost estimate must equal the cost of closure at the point in the operating life of the facility when the extent and manner of operation would make closure the most expensive, as indicated by the closure plan.~~

~~In addition, all facilities must have a written postclosure estimate, in current dollars, the cost of postclosure monitoring and maintenance during the postclosure period:~~

~~(6)) Limited purpose landfill standards.~~

~~(a) Limited purpose landfills shall meet the following requirements:~~

~~(i) The general facility standards of WAC 173-304-405;~~

~~(ii) The general closure and postclosure standards of WAC 173-304-407;~~

~~(iii) The performance standards of WAC 173-304-460(2);~~

~~(iv) The financial assurance standards of WAC 173-304-467; and~~

~~((iii)) (v) The ground water monitoring standards of WAC 173-304-490(2);~~

(b) In addition, limited purpose landfills must meet all other standards of WAC 173-304-130 and 173-304-460 unless the owner or operator applies for relief from each of these requirements as part of his permit application and includes evidence or reasons why the nature

of the waste, the disposal site and other factors can protect the environment and the public health.

NEW SECTION

WAC 173-304-467 FINANCIAL ASSURANCE. (1) Applicability.

(a) These standards apply to all new and expanded landfill disposal facilities, and to existing landfill disposal facilities that have not closed on or before November 27, 1989. Landfill disposal facilities include:

(i) All solid waste facilities operated as landfills under WAC 173-304-460, including limited purpose landfills under WAC 173-304-460(5);

(ii) Facilities operated as surface impoundments under WAC 173-304-430 that are closed with the waste remaining in place and therefore required to meet the requirements of WAC 173-304-407; and

(iii) Woodwaste landfills operated under WAC 173-304-462;

(b) For the purposes of this section, landfill disposal facilities are divided into the following ownership/use categories:

(i) A privately owned facility that accepts waste from the general public;

(ii) A publicly owned facility that accepts waste from the general public; and

(iii) A privately owned facility that does not accept waste from the general public and only disposes of waste generated on site by the facility owner.

(2) Cost estimate for closure.

(a) Each owner or operator must prepare a written closure cost estimate as part of the facility closure plan. The closure cost estimate must be in current dollars and represent the cost of closing the facility in accordance with the closure requirements in WAC 173-304-407.

(i) The cost estimate must be based on a maximum cost estimate for completing design, purchase, construction, and other activities as identified in the facility closure plan as required under WAC 173-304-407;

(ii) In establishing the closure cost estimate, each owner or operator must assume a closure situation where the department of ecology hires an independent contractor(s) to complete all closure activities as identified in the approved closure plan;

(iii) The closure plan shall project annual or other intervals for withdrawal of closure funds from the closure financial assurance instrument to complete the activities identified in the approved closure plan;

(iv) The closure cost estimate may not be reduced by allowance for salvage value of equipment, waste or the resale value of property or land;

(v) Closure cost estimates prepared for publicly owned disposal facilities accepting waste from the general public may reduce the total amount of the overall closure cost estimate by no more than fifteen percent by utilizing in-kind service to complete necessary closure activities identified in the approved closure plan.

(b) Each owner or operator must prepare a new closure cost estimate in accordance with (a) and (c) of this subsection whenever:

(i) Changes in operating plans or facility design affect the closure plan;

(ii) There is a change in the expected year of closure that affects the closure plan;

(iii) The jurisdictional health department directs the owner or operator to revise the closure plan or closure cost estimate; or

(iv) The department of ecology directs the facility owner or operator to adjust the closure cost estimate.

(c) Each owner or operator must adjust the closure cost estimate for inflation within thirty days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in (c)(i) and (ii) of this subsection, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in

accordance with (a) and (b) of this subsection, and when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(e) The department of ecology shall evaluate each cost estimate and may accept, or at its discretion require revision of the cost estimate in accordance with its evaluation.

(f) The department of ecology may require the facility owner or operator to adjust the cost estimate in accordance with ecology's review and direction. Ecology shall provide written notification to the jurisdictional health department in the event a closure cost estimate adjustment has been determined necessary.

(3) Financial assurance account for closure. Each owner or operator of an applicable landfill disposal facility shall establish a financial assurance account in an amount equal to the closure cost estimate prepared in accordance with subsection (2) of this section.

(a) Applicable landfill disposal facilities that accept waste from the general public must choose from the following financial assurance account options or combination of options:

(i) Reserve account established under the Budget Accounting Reporting System manual published in (): or

(ii) Closure trust fund.

(b) Applicable landfill disposal facilities maintained on private property that do not accept waste from the general public and only accept waste generated by the facility owner shall not be required to establish a reserve account or trust fund for closure if they provide another form of financial assurance account determined adequate by the department of ecology to comply with the requirements of this subsection. For the purposes of this subsection, the financial test and corporate guarantee as defined in WAC 173-303-620 shall not be a form of financial assurance deemed acceptable to the department of ecology.

(i) Requests for use of another form of financial assurance shall be submitted to the department of ecology for review and approval prior to establishment of the financial assurance account.

(ii) The department of ecology shall review the request and make a determination within thirty days of receipt of the request.

(c) For applicable disposal facilities that accept public waste as categorized in subsection (1)(b) of this section, established closure financial assurance accounts shall not constitute an asset of the facility owner or operator.

(d) All financial assurance accounts established under the requirements of this subsection shall not be available to any creditor in the event of bankruptcy or reorganization of the facility owner or operator. In the event of such bankruptcy, funds would be available for implementation at the direction of the department of ecology. Closure financial assurance funds shall not be available or used to pay any final judgment against the disposal facility owner or operator arising out of the operation of the facility before or after closure.

(e) For applicable disposal facilities that accept public waste as categorized in subsection (1)(b) of this section, any income accruing to the established closure financial assurance account through management by the trustee shall:

(i) Be deposited into the account and subjected to the same restrictions as the principal; or

(ii) Be returned to the landfill that generated the financial assurance account to provide for reduction of the facility user fees.

(f) For applicable disposal facilities that accept waste from the general public as categorized in subsection (1)(b) of this section, excess moneys remaining in the closure financial assurance account after the jurisdictional health department has certified the completion of closure as identified in WAC 173-304-407 (4)(e)(i) may be released by the department of ecology at its discretion to:

(i) Provide for a reduction of the disposal rates the public is charged within the area served by the landfill disposal facility; or

(ii) Provide for support of the respective county's comprehensive solid waste management planning efforts. In particular, the excess moneys should support implementation of activities identified in the county comprehensive solid waste management plan to develop programs and policies which promote the solid waste management priorities identified in RCW 70.95.010(4).

(g) For disposal facilities categorized in subsection (1)(b)(iii) of this section which does not accept waste from the general public shall be remitted back to the facility permittee.

(4) Cost estimate for post-closure.

(a) Each owner or operator must prepare a written post-closure cost estimate as part of the facility post-closure plan. The post-closure cost estimate must be in current dollars and represent the total cost of completing post-closure activities for the facility for at least a twenty-

year post-closure period in accordance with the post-closure requirements in WAC 173-304-407.

(i) The post-closure cost estimate must be based on a maximum cost estimate for completing post-closure monitoring, maintenance, and other activities identified in the approved facility post-closure plan as required under WAC 173-304-407;

(ii) In establishing the post-closure cost estimate, each owner or operator must assume a post-closure situation where the department of ecology hires an independent contractor(s) to complete all post-closure activities as identified in the approved post-closure plan;

(iii) The post-closure plan shall project annual or other intervals for withdrawal of post-closure funds from the post-closure financial assurance instrument to complete the activities identified in the approved post-closure plan;

(iv) The post-closure cost estimate shall not be reduced by allowance for salvage, value of equipment, waste, or the resale value of property or land;

(v) Post-closure cost estimates prepared for publicly owned disposal facilities accepting waste from the general public may reduce the total amount of the overall post-closure cost estimate by no more than fifteen percent by utilizing in-kind service to complete necessary post-closure activities identified in the approved post-closure plan.

(b) Each owner or operator must prepare a new post-closure cost estimate for the remainder of the post-closure care twenty-year period in accordance with (a) and (c) of this subsection, whenever:

(i) Change in the post-closure plan increases the cost of post-closure care;

(ii) The jurisdictional health department directs the owner or operator to revise the post-closure plan or post-closure cost estimate; or

(iii) The department of ecology directs the facility owner or operator to adjust the post-closure cost estimate.

(c) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within thirty days after each anniversary of the date on which the first post-closure cost estimate was prepared. The adjustment must be made as specified in (c)(i) and (ii) of this subsection using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the latest adjusted post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility, the latest post-closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted post-closure cost estimate.

(5) Financial assurance account for post-closure. Each owner or operator of a landfill disposal facility shall establish a financial assurance account in an amount equal to the post-closure cost estimate prepared in accordance with subsection (4) of this section.

(a) Landfill disposal facilities that accept waste from the general public must choose from the following financial assurance account options or combination of options:

(i) Reserve account established under the Budget Accounting Reporting System manual; or

(ii) Post-closure trust fund.

(b) Landfill disposal facilities maintained on private property that do not accept waste from the general public and only accept waste generated by the facility owner shall not be required to establish a reserve account or trust fund for post-closure if they provide another form of financial assurance account determined adequate by the department of ecology to comply with the requirements of this subsection. For the purposes of this subsection, the financial test and corporate guarantee as defined in WAC 173-303-620 shall not be a form of financial assurance deemed acceptable to the department of ecology.

(i) Requests for use of another form of financial assurance shall be submitted to the department of ecology for review and approval prior to establishment of the financial assurance account.

(ii) The department of ecology shall review the request and make a determination within thirty days of receipt of the request.

(c) For disposal facilities that accept public waste as categorized in subsection (1)(b) of this section, established post-closure financial assurance accounts shall not constitute an asset of the facility owner or operator.

(d) All financial assurance accounts established under the requirements of this subsection shall not be available to any creditor other than the jurisdictional health department in the event of bankruptcy or reorganization of the facility owner or operator. Post-closure financial assurance funds shall not be available or used to pay any final judgment against the disposal facility owner or operator arising out of the operation of the facility before or after closure.

(e) For disposal facilities that accept public waste as categorized in subsection (1)(b) of this section, any income accruing to the established post-closure financial assurance account through management by the trustee shall:

(i) Be deposited into the account and subjected to the same restrictions as the principal; or

(ii) Be returned to the landfill that generated the financial assurance account to provide for reduction of the facility user fees.

(f) Excess moneys remaining in the post-closure financial assurance account after the jurisdictional health department has certified the completion of post-closure as identified in WAC 173-304-407 (7)(c) may be released by the department of ecology at their discretion to:

(i) Provide for a reduction of the disposal rates the public is charged within the area served by the landfill disposal facility; or

(ii) Provide for support of the respective county's comprehensive solid waste management planning efforts. In particular, the excess moneys should support implementation of activities identified in the county comprehensive solid waste management plan to develop programs and policies which promote the solid waste management priorities identified in RCW 70.95.010(4).

(g) For disposal facilities categorized in subsection (1)(b)(iii) of this section that do not accept waste from the general public excess money shall be remitted back to the facility permittee.

(6) Closure/post-closure financial assurance account establishment and reporting.

(a) Closure and post-closure financial assurance funds shall be generated at each facility by transferring a percentage of the facility user fees to the selected financial assurance instrument on at least a monthly basis, such that adequate closure and post-closure funds will be generated to ensure full implementation of the approved closure, and post-closure plans.

(b) Each facility owner or operator must establish a procedure with the financial assurance instruments trustee for notification of nonpayment of funds to be sent to the Department of Ecology, Solid and Hazardous Waste Program, Mailstop PV-11, Olympia, WA 98504-8711.

(c) Each owner or operator shall file with the department of ecology an annual audit of the financial assurance accounts established for closure and post-closure activities, and a statement of the percentage of user fees, as applicable, diverted to the financial assurance instruments.

(i) The audit shall include calculations demonstrating fund levels adequate to meet the current closure and post-closure cost estimates. The audit shall also include calculations demonstrating the proportion of closure completed during the preceding year and funds transferred from the reserve account to the facility operations budget pursuant to subsection (7)(b) and (e) of this section.

(ii) Annual audits shall be conducted by a certified public accountant licensed in the state of Washington, and shall be filed with the department of ecology no later than March 31 of each year for the previous calendar year, including each of the post-closure care years.

(d) If the department of ecology finds that funds have been prematurely transferred from the closure or post-closure account to the facility operating funds as provided in subsection (7)(b) of this section, the department may require:

(i) The facility owner or operator to demonstrate and submit in writing to the department of ecology how the designated moneys have been used;

(ii) The facility owner or operator to transfer the designated funds to the appropriate closure or post-closure account; and

(iii) An additional percentage of the facility user fee be established to generate funds to be transferred to the appropriate financial assurance account.

(e) Existing landfill disposal facilities may submit a written request with their annual audit to the department of ecology requesting a waiver for utilizing user fees to generate the moneys necessary for the closure and/or post-closure financial assurance account. The waiver

request should provide documentation to demonstrate the facility user fees are prohibitively high, and include alternate method(s) for funding the facility's closure and/or post-closure financial assurance account.

(7) Authorization for financial assurance account fund withdrawal for closure and post-closure activities.

(a) Each owner or operator shall submit a written request to the department of ecology prior to each withdrawal of funds from either the closure or post-closure financial assurance account.

(b) The department of ecology shall review the request in conjunction with the approved closure and post-closure plan, and shall issue a written withdrawal authorization to the owner or operator, and the financial assurance instrument trustee, for each withdrawal. The department of ecology shall authorize the release of funds from the closure or post-closure financial assurance account to the owner or operator's facility operating budget in an amount equal to the percentage of closure or post-closure work completed in accordance with the approved closure or post-closure plan. The written authorization shall be on a form approved by the department. Based on its review, the department may at its discretion, authorize withdrawal of financial assurance account funds in whole or part conditioning the release of such funds on:

(i) The established cost estimate for the identified portion of the closure or post-closure task as provided in the approved closure or post-closure plan;

(ii) The owner or operator's certification that the identified portion of the closure or post-closure activities have been completed pursuant to the approved closure plan, and that the sum authorized has been used solely for identified closure or post-closure tasks and associated costs; and

(iii) The owner or operator's establishing the need for additional funds beyond the cost estimate identified in the approved closure or post-closure plan, to the satisfaction of the department of ecology.

(c) The department of ecology may authorize the release of financial assurance account funds to a third party other than the owner or operator, to effect the completion of any closure or post-closure activity deemed necessary by the department. Authorization of funds must be based on the department's determination that:

(i) The owner or operator has failed or refused to perform scheduled closure or post-closure activities in a timely manner as identified in the approved closure or post-closure plan;

(ii) Closure or post-closure activities have been improperly performed and are in noncompliance with the approved closure or post-closure plan; or

(iii) The owner or operator has violated the terms of the facility permit and the Minimum functional standards for solid waste handling (chapter 173-304 WAC).

(d) If the department of ecology finds that authorization of financial assurance funds to a third party is necessary under the provisions of (c) of this subsection, the department shall:

(i) Provide thirty days written notice to the facility owner or operator of such determination; and

(ii) Provide a thirty-day waiting period after issuance of written notification for review and written comment to be made to the department on their determination.

(e) If the owner or operator agrees to initiate the necessary corrective action within the thirty-day period, the department of ecology shall authorize the release of the appropriate financial assurance funds to the owner or operator upon successful completion of the closure or post-closure activity.

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-600 PERMIT REQUIREMENTS FOR SOLID WASTE FACILITIES. (1) Applicability.

(a) All facilities which are subject to the standards of WAC 173-304-130, 173-304-300, and 173-304-400 are required to obtain permits. Permits are not required for single family residences and single family farms dumping or depositing solid waste resulting from their own activities on to or under the surface of land owned or leased by them when such action does not create a nuisance, violate statutes, ordinances, or regulations, including this regulation.

(b) Permits are not required for corrective actions at solid waste handling facilities performed by the state and/or in conjunction with the United States Environmental Protection Agency to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state and/or federal cleanup order provided that:

(i) The action results in an overall improvement of the environmental impact of the site;

(ii) The action does not require or result in additional waste being delivered to the site or increase the amount of waste or contamination present at the site;

(iii) The facility standards of WAC 173-304-400 are met; and

(iv) The jurisdictional health department is informed of the actions to be taken and is given the opportunity to review and comment upon the proposed corrective action plans.

(c) Effective dates. The effective dates are as follows:

(i) The permit requirements of this section apply to all existing waste handling facilities eighteen months after the effective date of this regulation.

(ii) Between the effective date of this regulation and eighteen months thereafter, existing facilities will operate under the terms and conditions of existing permits valid on the effective date of this regulation. Jurisdictional health departments shall incorporate compliance schedules into valid existing permits; such compliance schedules shall insure that existing facilities meet the effective dates of WAC 173-304-400(3).

(iii) New and expanded waste handling facilities shall meet the requirements of this section on the effective date of this regulation.

(2) Procedures for permits.

(a) Any owner or operator subject to the permit requirements who intends to operate a facility must apply for a permit with the jurisdictional health department. Filing shall not be complete until two copies of the application have been signed by the owner and operator and received by the jurisdictional health department, and the applicant has filed an environmental checklist required under the State Environmental Policy Act rules, chapter 197-11 WAC.

(b) Applications for a permit must contain the information set forth in subsection (3) of this section.

(c) Once the jurisdictional health department determines that an application for a permit is factually complete, it shall refer one copy to the appropriate regional office of the department for review and comment.

(d) The jurisdictional health department shall investigate every application to determine whether the facilities meet all applicable laws and regulations, conforms with the approved comprehensive solid waste handling plan and complies with all zoning requirements.

(e) The jurisdictional health department may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the county treasury in the account from which the health department's operating expenses are paid.

(f) The department shall report to the jurisdictional health department its findings on each permit application within forty-five days of receipt of a complete application or inform the jurisdictional health department as to the status of the application. Additionally, the department shall recommend for or against the issuance of each permit by the jurisdictional health department.

(g) When the jurisdictional health department has evaluated all pertinent information, it may issue a permit. Every completed solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department or the applicant shall be informed as to the status of the application.

(h) Except for applications specified in subsection (3)(h) of this section every permit issued by a jurisdictional health department shall be on a format prescribed by the department and shall contain specific requirements necessary for the proper operation of the permitted site or facility including the requirement that final engineering plans and specifications be submitted for approval to the jurisdictional health department.

(i) All issued permits must be filed with the department no more than seven days after the date of issuance.

(j) The owner or operator of a facility shall apply for renewal of the facility's permit annually. The jurisdictional health department shall annually:

(i) Review the original application for compliance with these regulations and submit such additional information as spelled out in subsection (4) of this section;

(ii) Review information collected from inspections, complaints, or known changes in the operations;

(iii) Collect the renewal fee;

(iv) Renew the permit; and

(v) File the renewed permit with the department no more than seven days after the date of issuance. The department shall review and may appeal the renewal as set forth in RCW 70.95.185 and 70.95.190.

(3) Application contents for permits for new or expanded facilities.

(a) All permit applications except for inert waste, demolition waste, special purpose landfills, woodwaste landfill and recycling facilities applications, which are specified in (h) of this subsection, shall contain the following:

- (i) A general description of the facility;
- (ii) The types of waste to be handled at the facility;
- (iii) The plan of operation required by WAC 173-304-405(2);
- (iv) The form used to record weights or volumes required by WAC 173-304-405(3);

(v) An inspection schedule and inspection log required by WAC 173-304-405(5); and

(vi) Documentation to show that any domestic or industrial waste water treatment facility, such as a leachate treatment system, is being reviewed by the department under chapter 173-240 WAC.

(b) Application contents for permits for new or expanded landfill facilities. In addition to the requirements of (a) of this subsection, each landfill application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses:

- (A) Local/regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;
- (B) Evaluation of bedrock and soil types and properties;
- (C) Depths to ground water and/or aquifer(s);
- (D) Direction and flow rate of local ground water;
- (E) Direction of regional ground water;
- (F) Quantity, location and construction (where available) of private and public wells within a two thousand foot radius of site;
- (G) Tabulation of all water rights for ground water and surface water within a two thousand foot radius of the site;
- (H) Identification and description of all surface waters within a one-mile radius of the site;
- (I) Background ground and surface water quality assessment, and for expanded facilities, identification of impacts of existing facilities of the applicant to date upon ground and surface waters from landfill leachate discharges;
- (J) Calculation of a site water balance;
- (K) Conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable a vadose zone monitoring plan;
- (L) Land use in the area, including nearby residences; and
- (M) Topography of the site and drainage patterns.

(ii) Preliminary engineering report/plans and specifications that address:

- (A) How the facility will meet the locational standards of WAC 173-304-130;
- (B) Relationship of facility to county solid waste comprehensive plan and the basis for calculating the facility's life;
- (C) The design of bottom and side liners;
- (D) Identification of borrow sources for daily and final cover, and soil liners;
- (E) Interim/final leachate collection, treatment, and disposal;
- (F) Landfill gas control and monitoring;
- (G) Trench design, fill methods, elevation of final cover and bottom liner, and equipment requirements; and
- (H) Closure/postclosure design, construction, maintenance, and land use.

(iii) An operation plan that addresses:

- (A) Operation and maintenance of leachate collection, treatment, and disposal systems;
- (B) Operation and maintenance of landfill gas control systems;
- (C) Monitoring plans for ground water, surface water, and landfill gases to include sampling technique, frequency, handling, and analyses requirements;
- (D) Safety and emergency accident/fire plans;
- (E) Routine filling, grading, cover, and housekeeping;
- (F) Record system to address records on weights (or volumes), number of vehicles and the types of waste received;
- (G) Vector control plans; and
- (H) Noise control.

(iv) Closure plan to address:

- (A) Estimate of closure season/year;
- (B) Capacity of site in volume and tonnage;
- (C) Maintenance of active fill versus completed, final covered acreage;

(D) Estimated closure construction timing and notification procedures;

(E) Inspection by regulatory agencies.

(v) Postclosure plan to address:

- (A) Estimated time period for postclosure activities;
- (B) Site monitoring of landfill gas, ground water, and surface water;
- (C) Deed clause changes, land use, and zoning restrictions;
- (D) Maintenance activities to maintain cover and run-off systems; and
- (E) Identification of final closure costs including cost calculations and the funding mechanism.

(c) Application contents for new or expanded transfer stations, drop box facilities, and baling and compaction systems requiring a permit. In addition to the requirements of (a) of this subsection, each applicable application for a permit must contain preliminary engineering report/plans and specifications that address:

- (i) The proposed facility's zoning status;
- (ii) The relationship to the county solid waste comprehensive plan and the area to be served by the facility; and
- (iii) The facility design to address how the facility shall meet requirements of WAC 173-304-410, including closure.

(d) Application contents for new or expanded surface impoundments requiring a permit. In addition to the requirements of (a) of this subsection, each applicable application for a permit must contain:

- (i) A geohydrological assessment of the facility that addresses all of the factors of (b)(i) of this subsection;
- (ii) Preliminary engineering report/plans and specifications that address, where applicable:
 - (A) How the proposed facility will meet the locational standards of WAC 173-304-130;
 - (B) The relationship of facility to the county solid waste comprehensive plan;

(C) The design of liners and foundation to be incorporated in the facilities design including the design leachate of collection and treatment systems;

- (D) The design of ground water monitoring;
- (E) The design of dikes including calculations on dike stability analyses under conditions of liner failure;
- (F) Other design details, including sludge cleanout and disposal, overfilling alarms and inlet design; and
- (G) Closure/postclosure design, construction maintenance and land use.

(iii) An operation plan that addresses:

- (A) Operation and maintenance of leachate collection system, or ground water monitoring;
 - (B) Operation and maintenance of overfilling equipment or details of filling and emptying techniques;
 - (C) Inspection of dikes and liners for integrity; and
 - (D) Safety and emergency plans.
- (iv) A closure plan to address:
- (A) Estimate of closure year and cost;
 - (B) Methods of removing wastes, liners and any contaminated soils, and location of final disposal;
 - (C) Closure timing and notification procedures; and
 - (D) Final inspection by regulatory agencies.

(e) Application contents for new or expanded piles requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:

- (i) Preliminary engineering reports/plans and specifications that address:
 - (A) How the proposed facility will meet the locational standards of WAC 173-304-130;
 - (B) The relationship of the facility to the county solid waste comprehensive plan and zoning;
 - (C) The design of the liner or sealed surface upon which the liner rests, including an analysis of the liners ability to withstand the stress;
 - (D) The design of the run-on and run-off system;
 - (E) The design to avoid washout when the pile is located in a one hundred year floodplain; and
 - (F) Maximum elevation and boundaries of the waste pile.

(ii) An operation plan that addresses:

- (A) Methods of adding or removing wastes from the pile and equipment used;
 - (B) Inspection of the liner for integrity; and
 - (C) Safety and emergency plans.
- (iii) A closure plan to address:
- (A) Estimate of closure year and cost;

(B) Methods of removing wastes, liners and any contaminated soils, and location of final disposal;

(C) Closure timing and notification procedures; and

(D) Final inspection by regulatory agencies.

(f) Application contents for new or expanded energy recovery and incinerator facilities requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:

(i) Preliminary engineering reports/plans and specifications that address:

(A) The relationship of the facility to the county solid waste comprehensive plan and zoning;

(B) The design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash and any other wastes produced by air or water pollution controls; and

(C) The design of the incinerator or thermal treater, including changing or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included.

(ii) An operation plan that addresses:

(A) Cleaning of storage areas as required by WAC 173-304-440 (2)(a);

(B) Alternative storage plans for breakdowns as required in WAC 173-304-440 (2)(c);

(C) Inspection to insure compliance with state and local air pollution laws and to comply with WAC 173-304-405(5). The inspection log or summary must be submitted with the application; and

(D) How and where the fly ash, bottom ash and other solid wastes will be disposed of.

(iii) A closure plan to address:

(A) Estimate of closure year and cost;

(B) Methods of closure and methods of removing wastes, equipment, and location of final disposal;

(C) Closure timing and notification procedures; and

(D) Final inspection by regulatory agencies.

(g) Application contents for new or expanded landspreading disposal facilities requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses all of the factors of (b)(i) of this subsection;

(ii) Preliminary engineering reports/plans and specifications that address:

(A) How the proposed facility will meet the locational standards of WAC 173-304-130;

(B) The relationship of the facility to the county solid waste comprehensive plan and the basis for calculating the facility's life;

(C) Waste analyses and methods to periodically sample and analyze solid waste;

(D) Design of interim waste storage facilities if such facilities are not otherwise permitted by the department;

(E) Design of run-on and run-off systems;

(F) A contour map of the active area showing contours to the nearest foot;

(G) A ground water and surface water monitoring program; and

(H) Access barriers such as fences, and warning signs.

(iii) An operation plan that addresses:

(A) Operation and maintenance of run-off and run-on systems;

(B) Methods of taking ground water samples and for maintaining ground water monitoring systems;

(C) Methods of applying wastes to meet the requirements of WAC 173-304-450 (2)(d):

(I) Estimated multiples of agronomic rates;

(II) Frequency of discing; and

(III) Avoidance of standing water.

(D) The written contract required between landowners, waste generators and waste operators.

(iv) Closure plan to address:

(A) Estimate of closure season/year;

(B) Capacity of site in volume and tonnage;

(C) Year-to-year maintenance of the active area versus completed, final covered acreage;

(D) Closure construction timing and notification procedures; and

(E) Final inspection by regulatory agencies.

(v) Postclosure plan to address:

(A) Estimated time period for postclosure activities;

(B) Site monitoring of ground water;

(C) Deed clause changes, land use, and zoning restrictions;

(D) Maintenance activities to maintain cover and run-off systems;

(E) Plans for food chain crops being grown on the active areas, after closure; and

(F) Identification of final closure costs including cost calculations and the funding mechanism.

(h) Application contents for new or expanded inert waste and demolition waste, special purpose landfill, woodwaste landfills, and recycling facilities.

Applications for permits subject to the standards of WAC 173-304-300, 173-304-460(~~(6)~~) (5), 173-304-461, and 173-304-462 shall be on forms whose content shall be specified by the jurisdictional health department.

(4) Application contents for existing facilities renewing permits. All owners or operators of existing facilities shall renew permits or application forms specified in subsection (3) of this section. Previous information submitted to the jurisdictional health department may be referred to on the application forms. Changes in operating methods or other changes must be noted on the application in order to be authorized by permit.

(5) Inspections. As a minimum, annual inspections of all permitted solid waste facilities shall be performed by the jurisdictional health department. Any duly authorized officer, employee, or representative of the jurisdictional health officer or his designee having jurisdiction may enter and inspect any property, premises or place at any reasonable time for the purpose of determining compliance with this chapter, and relevant laws and regulations. Findings shall be noted and kept on file. A copy of the inspection report or annual summary shall be furnished to the site operator.

WSR 88-04-075

PROPOSED RULES

PARKS AND RECREATION COMMISSION

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Parks and Recreation Commission intends to adopt, amend, or repeal rules concerning:

Amd	WAC 352-12-010	Moorage and use of marine facilities.
Amd	WAC 352-12-020	Moorage fees.
Amd	WAC 352-32-035	Campsite reservation.
Amd	WAC 352-32-045	Reservations for group day use.
Amd	WAC 352-32-250	Standard fees charged.
Amd	WAC 352-74-030	Filing within state parks.
Amd	WAC 352-74-040	Film permit application, fee, and conditions.
Amd	WAC 352-74-060	Issuance and revocation of film permit.
Amd	WAC 352-74-070	Additional fees and release of bond or damage deposit;

that the agency will at 9:00 a.m., Friday, March 11, 1988, in the Vancouver City Hall, Vancouver, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.51.040 and 43.51.060.

The specific statute these rules are intended to implement is RCW 43.51.040 and 43.51.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: January 27, 1988

By: Mike Reed
Executive Assistant

STATEMENT OF PURPOSE

Title: WAC 352-12-010 Moorage and use of marine facilities; 352-12-020 Moorage fees; 352-32-035 Campsite reservation; 352-32-045 Reservations for group day use; 352-32-250 Standard fees charged; 352-74-030 Filming within state parks; 352-74-040 Film permit application, fee and conditions; 352-74-060 Issuance and revocation of film permit; and 352-74-070 Additional fees and release of bond or damage deposit.

Description of Purpose: Clarify commercial moorage provisions; adjust moorage fees; modify acceptance dates for reservations; specify group reservation rates; adjust camping fees; modifying filming provisions; and modify the response options of the director related to nonpayment of required filming fees.

Statutory Authority: RCW 43.51.040 and 43.51.060.

Summary of Rule: Allows specified commercial vessels to moor at state parks overnight in certain circumstances; moorage fees are increased by .50¢ and the effective periods for the fees are modified; language providing for a beginning date for processing of reservation requests is eliminated; group permit day use fee levels for groups of varying sizes are specified; standard fees for camping are increased, and fees for emergency camp areas are specified; agency discretion in the authorization of certain filming is provided for; conditions for filming in a park are specified; and provision is made for the commission to exercise available legal rights in case of nonpayment of additional fees required resulting from filming activities.

Reasons Supporting Proposed Action: Clarification of the application of extended moorage provisions to commercial vessels was needed; inflation, agency costs and competitive rates have generated a need for a moorage fee increase, as well as a camping fee increase; the existing requirement to wait until a specified date to begin processing reservation applications is unnecessary and problematic; increased services are required by larger groups, justifying a corresponding increase in fees, on a sliding scale; specification as to fees for use of emergency camp areas is needed; current language does not adequately state the commission's discretion to grant or deny film permits; does not relate granting of permission to film to conditions of an underlying deed for the property on which filming is proposed; and does not state the consequence of a permittee's noncompliance with permit conditions.

Agency Personnel Responsible for Drafting: Dennis Smith, Assistant Director for Administrative Services, 7150 Cleanwater Lane, Olympia, WA 98504-5711; Implementation and Enforcement: Lynn Genasci, Assistant Director for Operations, 7150 Cleanwater Lane, Olympia, WA 98504-5711.

Proposing: Washington State Parks and Recreation Commission.

Agency Comments: [No information supplied by agency.]

Federal Law/Court Action: [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 65, filed 3/2/83)

WAC 352-12-010 MOORAGE AND USE OF MARINE FACILITIES. (1) No person or persons shall moor or berth a vessel of any type in a commission owned or operated park or marine area except in designated marine park areas and at designated facilities.

(2) Use of designated marine park areas and facilities by commercial vessels is prohibited except for the loading and unloading of passengers transported for recreation purposes: PROVIDED HOWEVER, Park managers and park rangers may allow extended or night moorage at any facility during the period September 15 through April 30, inclusive, to commercial vessels unloading passengers transported to the park for recreation purposes if in the manager's or ranger's sole discretion sufficient space is reasonably available therefor.

(3) In order to afford the general public the greatest possible use of marine park facilities, continuous moorage at a facility by the same vessel, person or persons shall be limited to three consecutive nights, unless otherwise posted by the commission at any individual facility or area.

(4) In order to maximize usable space at mooring floats, boaters shall, whenever necessary, moor their vessels as close as reasonably possible to vessels already moored. Rafting of vessels is also permitted, within posted limits, but not mandatory.

(5) Use of any state park marine facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility, by means of a dinghy or any method other than occupying the space by the vessel to be moored, shall not be permitted.

(6) Dinghies shall be tied up only in designated spaces on moorage floats.

(7) Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, shall be permitted on state park floats or piers only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the ranger shall make final determination.

AMENDATORY SECTION (Amending Order 100, filed 3/23/87, effective 5/15/87)

WAC 352-12-020 MOORAGE FEES. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the commission shall be charged a nightly moorage fee during the period May 1 through (~~Labor Day~~) September 30, inclusive, according to the following schedule:

(a) Vessels twenty-six feet in length, and over, (~~(\$5-50))~~ \$6.00 per night;

(b) Vessels under twenty-six feet in length, (~~(\$3-50))~~ \$4.00 per night: PROVIDED, HOWEVER, This fee shall be applicable all year at Blake Island, Cornet Bay, Jarrell Cove, and Mystery Bay State Parks: PROVIDED FURTHER, Vessels properly displaying a valid seasonal permit shall not be charged a nightly moorage fee: PROVIDED FURTHER, There shall be no moorage fee for dinghies, vessels moored to state park buoys, vessels moored to floats not attached to piers, or any vessel riding on its own anchor: PROVIDED FURTHER, There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length.

AMENDATORY SECTION (Amending Order 100, filed 3/23/87, effective 5/15/87)

WAC 352-32-035 CAMPSITE RESERVATION. (1) Advance campsite reservations will be available in certain state parks as designated by the director.

(2) The period during which campsites may be reserved is from the Friday before Memorial Day through Labor Day.

(3) Reservation requests can only be made for camping dates within the current calendar year.

(4) Requests for reservations may be made in writing and must be postmarked a minimum of fourteen days in advance of the first camping night requested. Written reservation requests postmarked on or after January 1 will be accepted; reservation requests postmarked prior to January 1 will be returned. Accepted reservation requests will be processed in order of arrival (~~(beginning the second Monday in January and))~~ up to fourteen days in advance of Labor Day.

(5) Reservations may be made in person on or after April 1 at the park where camping is to occur.

(6) There will be a \$4.00 nonrefundable fee charged for each reservation made at each park, in addition to the standard campsite fee, regardless of the number of days reserved. Payment of the nonrefundable reservation fee and first night's camping fee must accompany the reservation request.

(7) Recreation, camping and reservation information may be obtained by calling the campsite information center on the toll-free telephone number established for that purpose. No reservation may be made by telephone.

(8) No individual may reserve a campsite in more than one state park, for one or more of the same days.

(9) Reservations for a specific campsite within a park will not be guaranteed.

(10) Campsites which have not been reserved may be used on a first-come-first-served basis without paying a reservation fee, if the site is occupied immediately.

(11) A raincheck will be issued for the camping fee paid for any confirmed reservation which is not used, provided a cancellation request is made by calling the campsite information center or the park in which the site is reserved, no less than twenty-four hours in advance of the first day of the reservation, or in writing to the park, postmarked seven days in advance of the first day of the reservation. Rainchecks will be valid for one year from the date of issue, and may be used toward camping fees in any state park, or may accompany a subsequent reservation request in lieu of payment for the first night's camping fee.

(12) Campers will be declared no-show and forfeit their reservation as well as the reservation fee and the first night's camping fee if they have not cancelled or if the reservation is not claimed by 9:00 p.m. After this time, the site may be reassigned, unless late arrival arrangements are made with the park by telephone between the hours of 7:00 p.m. and 9:00 p.m. on the day of arrival.

AMENDATORY SECTION (Amending Resolution No. 67, filed 4/15/83)

WAC 352-32-045 RESERVATIONS FOR GROUP DAY USE.

(1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A permit fee of ten dollars for groups of 20 to 50 persons, twenty dollars for groups of 51 to 100 persons, forty dollars for groups of 101 to 500 persons, and one hundred dollars for groups of 500 or more persons shall be charged to reservations granted under this WAC. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20, but not exceeding 50, this deposit shall be \$35. For groups in excess of 50, but not exceeding 100, this deposit shall be \$75. For groups in excess of 100, but not exceeding 500, this deposit shall be \$150. For groups in excess of 500, this deposit shall be \$300. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

AMENDATORY SECTION (Amending Order 100, filed 3/23/87, effective 5/15/87)

WAC 352-32-250 STANDARD FEES CHARGED. The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping - standard campsite: (~~(\$6.00)~~) \$7.00 per night;

(2) Overnight camping - utility campsite: (~~(\$6.00)~~) \$7.00 per night plus a nightly fee of \$.50 for domestic water hookup, \$.50 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not except when otherwise specified by a ranger;

(3) Overnight camping - primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.50 per night for motorized vehicle;

(4) Overnight camping - reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite.

(6) Group camping area - certain parks: \$.50 per person per night; nonrefundable reservation fee - \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center - overnight camping: \$3.15 per camper per night; PROVIDED, HOWEVER, The fee shall be \$3.40 per camper per night, effective September 8, 1987;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: \$3.55 per camper per night; PROVIDED, HOWEVER, The fee shall be \$3.80 per camper per night, effective September 8, 1987;

(b) Environmental learning center - day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group - whichever is higher;

(8) Hot showers: \$.25 for a minimum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle charge: \$3.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030;

(13) Overnight camping - emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

AMENDATORY SECTION (Amending Order 82, filed 10/2/84)

WAC 352-74-030 FILMING WITHIN STATE PARKS. The commission recognizes the desire of individuals and organizations to film within the state parks. Individuals and organizations may film within state parks in a manner which is not disruptive to park users or

resources when the filming is for personal or news purposes. Individuals and organizations that desire to film within state parks for other than personal or news purposes may do so only in accordance with the film permit requirements of this chapter ((352-74 WAC)) and subject to the discretion of the commission as otherwise set forth herein.

AMENDATORY SECTION (Amending Order 82, filed 10/2/84)

WAC 352-74-040 FILM PERMIT APPLICATION, FEE, AND CONDITIONS. Persons or organizations that desire to film within a state park for other than personal or news purposes shall submit a film permit application provided by the director to the:

Washington State Parks and
Recreation Commission
7150 Cleanwater Lane KY-11
Olympia, WA 98504

Each application shall be accompanied by an application fee of one hundred dollars which shall be in the form of a check or money order payable to the Washington state parks and recreation commission.

~~((All applicants shall agree to film in a manner which is compatible with the activities of park visitors, does not damage facilities or resources, does not disrupt wildlife, does not imply the endorsement of the commission for the content of the film, acknowledges the cooperation of the commission, and conforms with all of the applicable statutes, rules, policies, and procedures of the commission, and the instructions of the commission staff who supervise the filming.))~~

AMENDATORY SECTION (Amending Order 82, filed 10/2/84)

WAC 352-74-060 ISSUANCE AND REVOCATION OF FILM PERMIT. The director or designee of the director, shall issue a film permit provided by the commission to an approved applicant after the applicant has submitted to the commission any fees, bond, damage deposit, and insurance certification established pursuant to WAC 352-74-050 and has demonstrated in its application or otherwise to the satisfaction of the director that filming:

- (1) Is compatible with the activities of park visitors;
- (2) Will not damage facilities or resources;
- (3) Will not disrupt wildlife;
- (4) Will not imply the endorsement of the commission for the content of the film;
- (5) Will acknowledge the cooperation of the commission;
- (6) Is not inconsistent in the judgment of the director with the purposes for, or conditions on which, the property where the filming is to take place was acquired; and
- (7) Will conform with all of the applicable statutes, rules, policies, and procedures of the commission, and the instructions of the commission staff who supervise the filming.

If a film maker does not comply with all of the applicable statutes, rules, policies, and procedures of the commission, the conditions upon which the permit was granted, and the instructions of the commission staff who supervise the filming, then the director or designee of the director shall revoke ((a)) the film permit.

AMENDATORY SECTION (Amending Order 82, filed 10/2/84)

WAC 352-74-070 ADDITIONAL FEES AND RELEASE OF BOND OR DAMAGE DEPOSIT. After completion of filming the director or the designee of the director shall determine if any additional fees are to be assessed a film maker and whether or not any bond or damage deposit submitted to the commission by a film maker may be released.

If the director or the designee of the director determines that no additional fees are to be assessed and that a bond or damage deposit is to be released, then a bond or damage deposit shall be returned to a film maker.

If the director or the designee of the director determines that additional fees are to be assessed or that a bond or damage deposit is not to be released, then the film maker shall be so informed.

If a film maker pays additional fees in the form of a check or money order payable to the Washington state parks and recreation commission which is submitted to the commission within thirty days of receipt of the notice to pay the fees, then the director or the designee of the director shall return a bond or damage deposit to a film maker.

If a film maker does not pay additional fees within the time period and in accordance with the procedures set forth above, then the director or designee of the director shall exercise the rights of the commission under a bond or damage deposit to pay the additional fees and so inform a film maker or exercise any such other legal rights as may be available.

**WSR 88-04-076
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to gas and electric discontinuance of service, WAC 480-90-071 and 480-100-071. The proposed amendatory sections are shown below as Appendix A, Docket No. U-87-1525-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, March 9, 1988, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040.

The specific statute these rules are intended to implement is RCW 80.28.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 4, 1988.

Dated: February 3, 1988

By: Paul Curl
Acting Secretary

STATEMENT OF PURPOSE

In the matter of amending WAC 480-90-071 and 480-100-071 relating to discontinuance of service by gas and electric companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 which directs that the commission has authority to implement the provisions of chapter RCW [no further information supplied by agency].

The rules proposed by the Washington Utilities and Transportation Commission are designed to restore language to commission rules on discontinuance of service inadvertently omitted when the commission adopted rules implementing laws pertaining to the winter moratorium for low income customers.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, Washington, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed

rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-279, Cause No. U-87-590-R, filed 11/12/87)

WAC 480-90-071 DISCONTINUANCE OF SERVICE. By customer - a customer shall be required to give notice to the utility of his or her intention to discontinue service.

By utility - (1) service may be discontinued by the utility for any of the following reasons:

(a) For the nonpayment of bills. The utility shall require that bills for service be paid within a specified time after issuance. The minimum specified time shall be fifteen days. Upon the expiration of said specified time without payment, payment arrangement, or a payment plan, the bill may be considered delinquent.

(b) For the use of gas for purposes or properties other than that specified in the application.

(c) Under flat rate service, for increased use of gas without approval of the utility.

(d) For wilful waste of gas through improper or imperfect pipes, fixtures, or otherwise.

(e) For failure of the customer to eliminate any hazardous condition found to exist in his facilities (i.e., piping, venting, appliances, etc.).

(f) For tampering with the utility's property.

(g) In case of vacation of the premises by customer.

(h) For nonpayment of any proper charges, including deposit, as provided in the tariff of the utility, unless the customer has notified the utility of inability to pay a deposit in accordance with WAC 480-90-072 (4)(a) and has satisfied the remaining requirements to qualify for a payment plan.

(i) For refusal to comply with provisions of WAC 480-90-091, access to premises.

(j) For violation of rules, service agreements, or filed tariff(s).

(k) For use of equipment which adversely affects the utility's service to its other customers.

(l) For fraudulent obtaining or use of service. Whenever a fraudulent obtaining or use of the service is detected the utility may discontinue service without notice: PROVIDED, HOWEVER, That if the customer shall make immediate payment for such estimated amount of service as had been fraudulently taken and all costs resulting from such fraudulent use, the utility shall continue such service, subject to any applicable deposit requirements. If a second offense as to fraudulent obtaining or use is detected the utility may refuse to reestablish service subject to appeal to the commission. The burden of proof of such fraudulent obtaining or use will be upon the utility in case of an appeal to the commission. This rule shall not be interpreted as relieving the customer or other person of civil or criminal responsibility.

(m) For failure to keep any agreed upon payment plan.

(2) Except in case of danger to life or property, fraudulent use, impairment of service, or violation of law, no utility shall discontinue service unless the following conditions are met:

(a) Each utility shall provide written notice of disconnection served on the customer either by mail or, at its option, by personal delivery of the notice to the customer's address. If such written notice of disconnection is for nonpayment during the winter period, the utility shall advise the customer of the payment plan which is available pursuant to WAC 480-90-072(3), payment arrangements and responsibilities. If a

mailed notice is elected, service shall not be disconnected prior to the eighth business day following mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery. Delivered notice shall be deemed effective if handed to a person of apparent competence in the residence or, if a business account, a person employed at the place of business of the service customer. If no person is available to receive notice, notice shall be deemed served if attached to the primary door of the residence unit or business office at which service is provided. If service is not discontinued within ten working days of the first day on which disconnection may be effected, unless other mutually acceptable arrangements have been made, that disconnect notice shall become void and a new notice shall be required before the service can be discontinued.

(b)(i) Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the customer in person or by telephone to advise the customer of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach a customer by telephone shall be made during the utility's regular business hours. If a business or message telephone number is provided by the customer, the utility shall endeavor by that means to reach the customer if unable to make contact through the customer's home telephone. A log or record of the attempts shall be maintained by the utility showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified above.

(ii) Where the service address is different from the billing address, the utility shall in all instances prior to effecting discontinuance of service upon its own initiative provide notice to the service address except as provided in subsection (2)(e) of this section regarding master meters. If personal service is effected upon the billing address, then personal service must be effected upon the service address; if service by mail is effected to the billing address, then service by mail must also be effected to the service address.

(iii) When a customer of record orders termination of service at a service address, and the utility through its representative discovers that the actual service user at the service address has no prior notice of such termination, the utility shall delay termination for at least one complete business day following provision of actual notice to the service user.

(iv) All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the customer can make contact with the utility to resolve any differences or avail himself or herself of rights and remedies as set forth in WAC 480-90-096 (complaints and disputes) herein.

(c) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays, or on any other day on which the utility cannot reestablish service on the same or following day.

(d) When a utility employee is dispatched to disconnect service, that person shall be required to accept payment of a delinquent account at the service address if tendered in cash, but shall not be required to dispense change for cash tendered in excess of the amount due and owing. Any excess payment shall be credited to the customer's account. The utility shall be permitted to assess a reasonable fee as provided for in the tariff of the utility for the disconnection visit to the service address. Notice of the amount of such fee, if any, shall be provided within the notice of disconnection.

(e) Where service is provided through a master meter, or where the utility has reasonable grounds to believe service is to other than the customer of record, the utility shall undertake all reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, a minimum period of five days shall be allowed to permit the service users to arrange for continued service.

(f) Where service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection shall be provided to the director, Washington state department of social and health services, as well as to the customer. Upon request from the director or his designee, a delay in disconnection of no less than five business days from the date of notice shall be allowed so that the department may take whatever steps are necessary in its view to protect the interests of patients resident therein who are responsibilities of the department.

(g) Service may not be disconnected while a customer is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The customer shall be so

informed by the utility upon referral of a complaint to a utility supervisor or the commission.

(h)(i) The utility shall postpone termination of utility service or will reinstate service to a residential customer for thirty days from the date of receipt of a certificate by a licensed physician which states that termination of gas service will aggravate an existing medical condition or create a medical emergency for the customer, a member of the customer's family, or other permanent resident of the premises where service is rendered. Where service is reinstated, payment of a reconnection charge and/or a deposit shall not be required prior to such reinstatement of service.

(ii) This certificate of medical emergency must be in writing and show clearly the name of the person whose medical emergency would be adversely affected by termination, the nature of the medical emergency, and the name, title, and signature of the person certifying the medical emergency.

(iii) Any customer may designate a third party to receive notice of termination or other matters affecting the provision of service. The utility shall offer all customers the opportunity to make such designation. When the utility discovers that a customer appears to be unable to comprehend the impact of a termination of service, it shall consider an appropriate social agency to be third party. In either case, it shall not effect termination until five business days after provision of notice to the third party. Utilities shall discover which social agencies are appropriate for and willing to receive such notice, and the name and/or title of the person able to deal with the termination situation, and shall inform the commission on a current basis which agencies and position titles receive such notifications.

(3) Payment of any delinquent amounts to a designated payment agency of the utility shall constitute payment to the utility, if the customer informs the utility of such payment and the utility verifies such payment.

(4) Service shall be restored when the causes of discontinuance have been removed and when payment of all proper charges due from the customer, including any proper deposit, has been made as provided for in the tariff of the utility; or as the commission may order pending resolution of any bona fide dispute between the utility and customer over the propriety of disconnection.

(5) A utility may make a charge for restoring service when service has been discontinued for nonpayment of bills. The amount of such charge is to be specified in the utility's tariff.

AMENDATORY SECTION (Amending Order R-279, Cause No. U-87-590-R, filed 11/12/87)

WAC 480-100-071 DISCONTINUANCE OF SERVICE. By customer - a customer shall be required to give notice to the utility of his or her intention to discontinue service.

By utility - (1) Service may be discontinued by the utility for any of the following reasons:

(a) For the nonpayment of bills. The utility shall require that bills for service be paid within a specified time after issuance. The minimum specified time shall be fifteen days. Upon the expiration of said specified time without payment, payment arrangement, or a payment plan, the bill may be considered delinquent.

(b) For the use of electrical energy for purposes or properties other than that specified in the application.

(c) Under flat rate service, for increased use of electrical energy without approval of the utility.

(d) For willful waste of electrical energy through improper or imperfect wiring, equipment, or otherwise.

(e) When customer's wiring or equipment does not meet the utility's standards, or fails to comply with other applicable codes and regulations.

(f) For tampering with the utility's property.

(g) In case of vacation of the premises by customer.

(h) For nonpayment of any proper charges, including deposit, as provided in the tariff of the utility unless the customer has notified the utility of inability to pay a deposit in accordance with WAC 480-100-072 (4)(a) and has satisfied the remaining requirements to qualify for a payment plan.

(i) For refusal to comply with provisions of WAC 480-100-091, access to premises.

(j) For violation of rules, service agreements, or filed tariff(s).

(k) For use of equipment which adversely affects the utility's service to its other customers.

(l) For fraudulent obtaining or use of service. Whenever a fraudulent obtaining or use of the service is detected the utility may discontinue service without notice: PROVIDED, HOWEVER, That if the customer shall make immediate payment for such estimated amount of service as had been fraudulently taken and all costs resulting from such fraudulent use, the utility shall continue such service, subject to any applicable deposit requirements. If a second offense as to fraudulent obtaining or use is detected the utility may refuse to reestablish service subject to appeal to the commission. The burden of proof of such fraudulent obtaining or use will be upon the utility in case of an appeal to the commission. This rule shall not be interpreted as relieving the customer or other person of civil or criminal responsibility.

(m) For failure to keep any agreed upon payment plan.

(2) Except in case of danger to life or property, fraudulent use, impairment of service, or violation of law, no utility shall discontinue service unless the following conditions are met:

(a) Each utility shall provide written notice of disconnection served on the customer either by mail or, at its option, by personal delivery of the notice to the customer's address. If such written notice of disconnection is for nonpayment during the winter period the utility shall advise the customer of the payment plan which is available pursuant to WAC 480-100-072(3), payment arrangements and responsibilities. If a mailed notice is elected, service shall not be disconnected prior to the eighth business day following mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery. Delivered notice shall be deemed effective if handed to a person of apparent competence in the residence or, if a business account, a person employed at the place of business of the service customer. If no person is available to receive notice, notice shall be deemed served if attached to the primary door of the residence unit or business office at which service is provided. If service is not discontinued within ten working days of the first day on which disconnection may be effected, unless other mutually acceptable arrangements have been made, that disconnect notice shall become void and a new notice shall be required before the service can be discontinued.

(b)(i) Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the customer in person or by telephone to advise the customer of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach a customer by telephone shall be made during the utility's regular business hours. If a business or message telephone number is provided by the customer, the utility shall endeavor by that means to reach the customer if unable to make contact through the customer's home telephone. A log or record of the attempts shall be maintained by the utility showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified above.

(ii) When the service address is different from the billing address, the utility shall in all instances prior to effecting discontinuance of service upon its own initiative provide notice to the service address unless the utility has verified that the customer of record and the service user are the same party. If personal service is effected upon the billing address, then personal service must be effected upon the service address; if service by mail is effected to the billing address, then either personal service or service by mail must be effected to the service address. Discontinuance of service shall not occur earlier than five business days after provision of notice to the service address.

(iii) When a customer of record orders termination of service at a service address, and the utility through its representative discovers that the actual service user at the service address has no prior notice of such termination, the utility shall delay termination for at least one complete business day following provision of actual notice to the service user.

(iv) All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the customer can make contact with the utility to resolve any differences or avail himself or herself of rights and remedies as set forth in WAC 480-100-096 (complaints and disputes) herein.

(c) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays, or on any other day on which the utility cannot reestablish service on the same or following day.

(d) When a utility employee is dispatched to disconnect service, that person shall be required to accept payment of a delinquent account at the service address if tendered in cash, but shall not be required to dispense change for cash tendered in excess of the amount due and

owing. Any excess payment shall be credited to the customer's account. The utility shall be permitted to assess a reasonable fee as provided for in the tariff of the utility for the disconnection visit to the service address. Notice of the amount of such fee, if any, shall be provided within the notice of disconnection.

(e) Where service is provided through a master meter, or where the utility has reasonable grounds to believe service is to other than the customer of record, the utility shall undertake all reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, a minimum period of five days shall be allowed to permit the service users to arrange for continued service.

(f) Where service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection shall be provided to the director, Washington state department of social and health services, as well as to the customer. Upon request from the director or his or her designee, a delay in disconnection of no less than five business days from the date of notice shall be allowed so that the department may take whatever steps are necessary in its view to protect the interests of patients resident therein who are responsibilities of the department.

(g) Service may not be disconnected while a customer is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The customer shall be so informed by the utility upon referral of a complaint to a utility supervisor or the commission.

(h)(i) When a utility has, or has had, cause to disconnect utility service, the utility shall postpone termination of service or will restate service to a residential customer for thirty days from the date of receipt of a certificate by a licensed physician which states that termination of electric service will aggravate an existing medical condition or create a medical emergency for the customer, a member of the customer's family, or other permanent resident of the premises where service is rendered. When service is reinstated, payment of a reconnection charge and/or a deposit shall not be required prior to such reinstatement of service.

(ii) This certificate of medical emergency must be in writing and show clearly the name of the person whose medical emergency would be adversely affected by termination, the nature of the medical emergency, and the name, title, and signature of the person certifying the medical emergency. If a notice of disconnection has been issued and the customer notifies the utility that a medical emergency exists, the customer shall be allowed five business days from when the utility is so notified to provide the utility with a certificate of medical emergency. If this five day period extends beyond the time set for discontinuance of service, the utility shall extend the time of discontinuance until the end of the five day period. If service has been discontinued and the customer requests reconnection of service due to a medical emergency, the utility shall reconnect service and the customer shall be allowed five business days to provide the utility with a certificate of medical emergency. If the utility does not receive a certificate of medical emergency within the time limits set herein, the utility may discontinue service following an additional twenty-four hour notice to the premises.

(iii) Any customer may designate a third party to receive notice of termination or other matters affecting the provision of service. The utility shall offer all customers the opportunity to make such designation. When the utility discovers that a customer appears to be unable to comprehend the impact of a termination of service, the utility shall consider an appropriate social agency to be the third party. In either case, the utility shall not effect termination until five business days after provision of notice to the third party. Utilities shall discover which social agencies are appropriate and willing to receive such notice, and the name and/or title of the person able to deal with the termination situation, and shall inform the commission on a current basis which agencies and position titles receive such notifications.

(3) Payment of any delinquent amounts to a designated payment agency of the utility shall constitute payment to the utility, if the customer informs the utility of such payment and the utility verifies such payment.

(4) Service shall be restored when the causes of discontinuance have been removed and when payment of all proper charges due from the customer, including any proper deposit, has been made as provided for in the tariff of the utility; or as the commission may order pending resolution of any bona fide dispute between the utility and customer over the propriety of disconnection.

(5) A utility may make a charge for restoring service when service has been discontinued for nonpayment of bills. The amount of such charge is to be specified in the utility's tariff.

WSR 88-04-077

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Practical Nursing)

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Practical Nursing intends to adopt, amend, or repeal rules concerning licensure qualifications, amendatory section WAC 308-117-030;

that the agency will at 9:00 a.m., Wednesday, March 16, 1988, in the Marquis Room at the Quality Inn, 3000 176th Avenue South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.78.050, 18.78.060 and 18.130.050.

The specific statute these rules are intended to implement is RCW 18.78.050 and 18.130.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1988.

Dated: February 2, 1988

By: Susan Boots, RN, MN

Executive Secretary

Assistant Program Manager

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Practical Nursing.

Purpose: To provide for requirements related to an applicant's completion of an approved nursing program.

Summary: WAC 308-117-030 Licensure qualifications.

Statutory Authority: RCW 18.78.050, 18.78.060 and 18.130.050.

Reason Proposed: To require applicants for licensure to have completed their nursing programs within a certain current time period in order to be examined.

Responsible Departmental Personnel: In addition to the members of the Washington State Board of Practical Nursing, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Susan Boots, Board of Practical Nursing, Division of Professional Programs Management, P.O. Box 9649, Olympia, Washington 98504, phone (206) 753-2807 comm, (206) 234-2807 scan.

Proponents: Washington State Board of Practical Nursing.

Small Business Economic Impact Statement: Not required since this rule does not impact small businesses as that term is defined in RCW 19.85.020.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-030 LICENSURE QUALIFICATIONS. (1) In order to be eligible for licensure by examination the applicant shall have satisfactorily completed an approved practical nursing program, fulfilling all the basic course content as stated in WAC 308-117-300, or its equivalent as determined by the board. Effective May 1, 1988, every applicant must have satisfactorily completed an approved practical nursing program within three years of the date of the first examination taken or the applicant must meet other requirements of the board to determine current theoretical and clinical knowledge of practical nursing practice.

(2) An applicant who has not completed an approved practical nurse program must establish evidence of successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses, which courses include personal and vocational relationships of the practical nurse, basic science and psychosocial concepts, theory and clinical practice in medications and the nursing process, and theory and clinical practice in medical, surgical, geriatric, pediatric, obstetric and mental health nursing. These courses must be equivalent to those same courses in a practical nursing program approved by the board.

WSR 88-04-078
PROPOSED RULES
ATTORNEY GENERAL'S OFFICE
[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Attorney General intends to adopt, amend, or repeal rules concerning chapter 19.118 RCW, technical expert prehearing inspection reports, new section WAC 44-10-165;

that the agency will at 10:00 a.m., Friday, March 11, 1988, in the 13th Floor Library, Dexter Horton Building, Seattle, Washington 98104-1749, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 19.118.080 (2) and (7).

The specific statute these rules are intended to implement is RCW 19.118.080 and 19.118.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Dated: February 2, 1988

By: Tad H. Shimazu
Assistant Attorney General
Lemon Law Administrator
Consumer and Business
Fair Practices Division

STATEMENT OF PURPOSE

Name of Agency: Washington State Attorney General's Office.

Purpose/Summary of Rules: WAC 44-10-165 sets forth requirements for the technical expert and use of the technical expert prehearing inspection report.

Statutory Authority: RCW 19.118.080 and 19.118.090.

Reasons Proposed: To implement chapter 19.118 RCW and to provide standards for uniform conduct of

the arbitrators and uniform standards to administer the arbitration process.

Responsible Departmental Personnel: In addition to the attorney general, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: Tad Shimazu, Assistant Attorney General, Consumer and Business Fair Practices Division, 1300 Dexter Horton Building, Seattle, WA 98104-1749, phone (206) 464-7030 or 576-7030 scan.

Proponents: State of Washington Attorney General's Office.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: Not required for this statement.

NEW SECTION

WAC 44-10-165 TECHNICAL EXPERT PRE-HEARING INSPECTION REPORT. (1) In the event a technical expert is assigned to a dispute and conducts an inspection of the vehicle prior to hearing per WAC 44-10-160(2), any written report or results of such inspection shall be supplied to the parties as soon as it is available.

(2) In the event a technical expert conducts an inspection of the vehicle prior to hearing, said technical expert shall be present at the hearing or shall be available by telephone at the time of hearing, and may be examined by either party or the arbitrator. If the technical expert is not available for examination, upon motion by either party, the arbitrator shall have the discretion to continue the hearing up to 10 days if it appears that examination of the expert is necessary for a fair resolution of the dispute.

WSR 88-04-079
EMERGENCY RULES
ATTORNEY GENERAL'S OFFICE
[Order 88-3—Filed February 3, 1988]

I, Kenneth O. Eikenberry, Attorney General of Washington, do promulgate and adopt at Olympia, Washington, the annexed rules relating to chapter 19.118 RCW, technical expert prehearing inspection report, new section WAC 44-10-165.

I, Kenneth O. Eikenberry, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is chapter 19.118 RCW went into effect on January 1, 1988, providing arbitration hearings for new motor vehicle owners. This rule is necessary for the proper conduct of such arbitration hearings.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 19.188.080 [19.118.080] (2) and (7) which directs that the Washington State Attorney General's Office has authority to implement the provisions of chapter 19.118 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 3, 1988.

By Kenneth O. Eikenberry
Attorney General

NEW SECTION

WAC 44-10-165 TECHNICAL EXPERT PRE-HEARING INSPECTION REPORT. (1) *In the event a technical expert is assigned to a dispute and conducts an inspection of the vehicle prior to hearing per WAC 44-10-160(2), any written report or results of such inspection shall be supplied to the parties as soon as it is available.*

(2) *In the event a technical expert conducts an inspection of the vehicle prior to hearing, said technical expert shall be present at the hearing or shall be available by telephone at the time of hearing, and may be examined by either party or the arbitrator. If the technical expert is not available for examination, upon motion by either party, the arbitrator shall have the discretion to continue the hearing up to 10 days if it appears that examination of the expert is necessary for a fair resolution of the dispute.*

WSR 88-04-080

ADOPTED RULES

MEDICAL DISCIPLINARY BOARD

[Order PM 703—Filed February 3, 1988]

Be it resolved by the state of Washington Medical Disciplinary Board, acting at West Seattle Community Hospital, 2600 S.W. Holden, Seattle, WA, that it does adopt the annexed rules relating to new WAC 320-16-020.

This action is taken pursuant to Notice No. WSR 87-24-100 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.130.050 which directs that the Medical Disciplinary Board has authority to implement the provisions of RCW 18.130.180(8).

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 15, 1988.

By James P. Dunlap, MD
Chairman

NEW SECTION

WAC 320-16-020 COOPERATION WITH INVESTIGATION. (1) A physician must comply with a

request for records, documents or explanation from an investigator who is acting on behalf of the board by submitting the requested items within fourteen (14) calendar days of receipt of the request by the physician or the physician's attorney, whichever is first. If the physician fails to comply with the request within fourteen (14) calendar days, the investigator shall contact the physician or the physician's attorney by telephone or letter as a reminder.

(2) Investigators may extend the time for response if the physician requests an extension for a period not to exceed seven (7) calendar days. Other requests for extension may be granted only by the presiding officer.

(3) If the physician fails to comply with the request within three (3) business days after the receipt of the reminder, then a subpoena shall be served upon the physician to obtain the requested items.

(4) If the physician fails to comply with the subpoena, a statement of charges shall be issued pursuant to RCW 18.130.180(8) and, if there is sufficient evidence to support additional charges, then those charges may be included in the statement of charges.

(5) If the physician complies with the request after the issuance of the statement of charges, the board's assistant attorney general-prosecutor shall decide whether the charges based on RCW 18.130.180(8) will be prosecuted or settled. If the charges based on RCW 18.130.180(8) are to be settled, the settlement proposal shall be presented to the board or a duly constituted panel of the board for a decision on ratification and until ratified, the settlement is not final.

WSR 88-04-081

ADOPTED RULES

ATTORNEY GENERAL'S OFFICE

[Order 88-2—Filed February 3, 1988]

I, Kenneth O. Eikenberry, Attorney General of Washington, do promulgate and adopt at Olympia, Washington, the annexed rules relating to chapter 19-118 RCW:

New	WAC 44-10-040	Attorney general screening of arbitration requests.
Amd	WAC 44-10-050	Assignment to arbitration service.
New	WAC 44-10-055	Composition of arbitration panel.
New	WAC 44-10-060	Powers and duties of arbitration special master.
New	WAC 44-10-070	Manufacturer's statement.
New	WAC 44-10-080	Manufacturer's right to request a viewing of vehicle.
New	WAC 44-10-110	Scheduling of arbitration hearings.
New	WAC 44-10-130	Defaults.
New	WAC 44-10-160	Use of technical expert.
New	WAC 44-10-180	The arbitration hearing.
New	WAC 44-10-200	The arbitration decision.
New	WAC 44-10-210	Technical corrections.

This action is taken pursuant to Notice No. WSR 88-01-091 filed with the code reviser on December 22, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 19.118-.080 (2) and (7) which directs that the attorney general of Washington has authority to implement the provisions of chapter 19.118 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 3, 1988.

By Kenneth O. Eikenberry
Attorney General

NEW SECTION

WAC 44-10-040 ATTORNEY GENERAL SCREENING OF ARBITRATION REQUESTS. (1) A submitted Request For Arbitration form shall be date stamped upon receipt by the Attorney General.

(2) The Attorney General will screen the Request For Arbitration form and supporting documentation to determine if the request is timely, complete and complies with the jurisdictional requirements of chapter 19.118 RCW.

(a) A request will be considered timely if it is received within thirty months from the date of original delivery of the new motor vehicle to the original consumer.

(b) If a request is not timely or does not comply with the jurisdictional requirements of chapter 19.118 RCW the Attorney General will reject the request and then notify the consumer of the reason for the rejection.

(c) A request will be considered complete if the information required by the request form is provided in full or if the consumer can provide a reasonable explanation to the Attorney General why any supporting documentation may be absent.

(d) If a request is not complete, the Attorney General will notify the consumer of any procedures or information required to complete the request.

(3) If the Attorney General finds that a request is not complete, the statute of limitations, for purposes of chapter 19.118 RCW, will resume running two business days after the date the Attorney General mails notice of incompleteness to the consumer.

(4) A consumer request that is based on a problem which does not manifest itself, is intermittent or unconfirmed shall not preclude an Attorney General finding of jurisdiction for purposes of initial screening. However, this section shall not preclude a party from raising jurisdictional issues at the arbitration hearing or subsequent court proceedings.

AMENDATORY SECTION (Amending Order 87-4, filed 12/22/87)

WAC 44-10-050 ASSIGNMENT TO ARBITRATION SERVICE. (1) After initial screening by the Attorney General, all timely and complete Request For Arbitration forms which have met the jurisdictional requirements of chapter 19.118 RCW shall be date stamped upon approval by the Attorney General and forwarded to the Arbitration Service which will date stamp the request upon receipt.

(2) The Arbitration Service must determine if it will accept the Request For Arbitration or reject the Request For Arbitration, for the reasons set forth in RCW 19.118.090, within three business days after the Attorney General has forwarded the Request For Arbitration to the arbitration service.

(3) The Arbitration Service shall date stamp the Request For Arbitration immediately upon acceptance of the request. The acceptance of the request shall commence the running of the thirty calendar day period in which a hearing must be conducted.

(4) Upon acceptance of a request, the Arbitration Service shall immediately send a Notice of Arbitration to the consumer and manufacturer of its acceptance by certified mail/return receipt requested and shall inform the parties that a hearing shall be held within thirty calendar days. The parties shall be sent formal notice of the actual hearing date by certified mail/return receipt requested, at least ten calendar days before the hearing. The manufacturer shall be sent a copy of the consumer's request and a Manufacturer's Statement form with the Notice of Arbitration.

NEW SECTION

WAC 44-10-055 COMPOSITION OF ARBITRATION PANEL. (1) Upon acceptance of the consumer's Request For Arbitration, the Arbitration Service shall inform the consumer and the manufacturer that the hearing will be conducted by an arbitrator appointed by the Arbitration Service unless either party requests that the hearing be conducted by a three member panel. Such request must be in writing and received by the Arbitration Service within five business days of the date the party received the Notice of Arbitration. The three member panel shall be appointed by the Arbitration Service and may include an automotive technical expert.

(2) The three member panel shall be subject to the provisions of WAC 44-10-170 and 44-10-180.

NEW SECTION

WAC 44-10-060 POWERS AND DUTIES OF ARBITRATION SPECIAL MASTER. (1) One or more Arbitration Special Masters shall be appointed by the Arbitration Service to hear and decide preliminary and post-hearing issues that must be resolved, including but not limited to; motions to quash subpoenas, motions for telephone conference hearings, requests for continuances, requests to view the vehicle. The Arbitration Special Master may conduct telephonic conferences with a party or parties, as appropriate, and may request additional written information in order to rule on issues.

(2) Arbitration Special Masters shall sign a written oath prior to their appointment as Arbitration Special Master attesting to their impartiality. There shall be no ex parte communication initiated by a party between such party and the Arbitration Special Master.

NEW SECTION

WAC 44-10-070 MANUFACTURER'S STATEMENT. (1) The manufacturer shall be required, on a

form prescribed by the Attorney General, to provide information relevant to the resolution of the dispute to the consumer and Arbitration Service. The manufacturer shall ensure that the completed Manufacturer's Statement form is received by the Arbitration Service and consumer within ten calendar days from the date of receipt of the Notice of Arbitration. The Manufacturer's Statement form shall be completely answered and shall include, but not be limited to, the following information:

(a) A statement of any affirmative defenses, and any legal or factual issues to be raised at the hearing. Any issues or affirmative defenses not raised in documents filed prior to the hearing may not be raised at the hearing; except as provided in WAC 44-10-080(6).

(b) the name, title, and business address of any person(s) the manufacturer plans to call as witnesses or from whom affidavits or written testimony will be presented;

(c) a statement identifying the year, make, model, options, color and any other significant information pertaining to the vehicle or vehicles it intends to offer as a reasonably equivalent replacement vehicle if the consumer prevails and requests replacement. If the manufacturer believes in good faith that replacement is impossible or unreasonable, the manufacturer must raise such issue in its statement.

(2) The manufacturer must exercise its right to request a viewing of the consumer's motor vehicle by including a request to view the vehicle in the Manufacturer's Statement.

NEW SECTION

WAC 44-10-080 MANUFACTURER'S RIGHT TO REQUEST A VIEWING OF MOTOR VEHICLE.

(1) A manufacturer may request a viewing of the vehicle to aid in preparation of its defense. Such request must be indicated in the Manufacturer's Statement.

(2) The manufacturer and the consumer shall attempt to arrange a mutually agreeable time and location for such viewing. If after reasonable good faith attempts to arrange a viewing, a mutually agreeable time and location is not established, the manufacturer may request from the Arbitration Service that a Arbitration Special Master set a time and location for viewing.

(3) The Arbitration Special Master, upon such request, shall establish a time and location for viewing that is reasonably convenient for the parties. The location may be the consumer's residence if other locations are not reasonably convenient for the parties, The consumer must be present during the viewing, unless the consumer expressly waives in writing the right to be present.

(4) The viewing is not meant to be another attempt to repair the vehicle and no repair procedures shall be conducted.

(5) The manufacturer may perform limited nonrepair diagnostic examinations and inspection procedures, such as test driving the vehicle or attaching a testing device to the vehicle. The results of any diagnostic procedures or data gathered as a result of such procedures shall be supplied to the consumer as soon as it is available.

(6) If the viewing of the vehicle reveals any affirmative defenses or legal or factual issues not previously

raised in the Manufacturer's Statement or consumer's Request For Arbitration, either party may file amendments to their pleadings within three business days of the viewing, or, no later than three business days prior to the hearing date, whichever is earlier.

NEW SECTION

WAC 44-10-110 SCHEDULING OF ARBITRATION HEARINGS. The Arbitration Service has the authority to schedule, at its discretion, the arbitration hearing and shall notify both parties of the date, time and place by certified letter mailed at least ten calendar days prior to the hearing. Hearings may be scheduled during business hours, Monday through Thursday evenings, or Saturdays.

NEW SECTION

WAC 44-10-130 DEFAULTS. (1) A party who fails to appear at the arbitration hearing will be considered in default.

(2) If a manufacturer defaults the arbitrator shall hold the hearing. The arbitrator shall make a decision based on the evidence presented by the consumer, and any files or documentation contained in the record.

(3) If the consumer defaults it shall be considered a withdrawal with prejudice of the claim for arbitration. The hearing shall be canceled if the consumer defaults.

(4) The default shall be final unless within twenty-four hours of the hearing time, the manufacturer or consumer contacts the Arbitration Service to request that the default be set aside. The request shall include evidence of an unforeseeable circumstance that resulted in the failure of the party to appear. Such request shall be considered by the Arbitration Special Master who will hear arguments from both parties on the request to set aside the default. Arguments may be conducted via telephone conference call. If the Arbitration Special Master sets aside the default a new hearing shall be scheduled within ten calendar days of the original hearing date, and the parties shall be informed of the new date and time at least five business days prior to the hearing date.

(5) If both parties default, the disposition of the case shall be handled as if only the consumer defaulted pursuant to WAC 44-10-130(3).

NEW SECTION

WAC 44-10-160 USE OF TECHNICAL EXPERT. (1) An adequate pool of automotive technical experts shall be maintained by the Arbitration Service for assignment as advisors and consultants to each arbitrator if such services are deemed necessary.

(2) Either party may request that a technical expert be assigned to a dispute. Such assignment, however, shall be at the discretion of the arbitrator or the Arbitration Service. The arbitrator or the Arbitration Service may upon their own volition assign a technical expert to a dispute. If a technical expert is assigned to a dispute, and intends to perform an inspection of the vehicle prior to the hearing, a notice of the time, date and location of the technical expert's inspection of the vehicle will be

provided to both parties. This section does not confer a right, for either party, to be present during the inspection of the vehicle, however, either party may be present. Any request for a technical expert must be made within a time frame that will allow for reasonable inspection by the expert.

(3) Said expert may be present as advisor and consultant at the arbitration hearing, if he or she has been requested to be present by the arbitrator or Arbitration Service.

(4) The expert shall sign a written oath attesting to his or her impartiality prior to the commencement of each arbitration hearing to which he or she has been assigned.

NEW SECTION

WAC 44-10-180 THE ARBITRATION HEARING. (1) The conduct of the hearing shall encourage a full and complete disclosure of the facts.

(2) Arbitrators may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Either party, at the hearing or any time prior, may request that the arbitrator examine or ride in the vehicle. The arbitrator shall comply with such requests unless the arbitrator determines that such examination or ride is not reasonably practical, not reasonably safe, or not relevant to the issues to be considered at the hearing. Such determination shall be set forth in the arbitration decision.

(3) The consumer shall present his or her evidence and witnesses, then the manufacturer shall present its evidence and witnesses.

(4) Each party may question the other after each presentation, and may question each witness after testimony. The arbitrator may question any party or witness at any time.

(5) The arbitrator shall ensure that a record of the hearing is maintained,

(6) The arbitrator shall administer an oath or affirmation to each individual who testifies.

(7) The hearing procedure contemplates that both parties will be present. However, either party may offer written testimony only, as long as the Arbitration Service and the other party are informed of such and are in receipt of that evidence prior to the day of the hearing.

(8) A party may request presentation of its case by telephone. Such request must demonstrate that it is unreasonable to require the requesting person to attend the hearing in person. The request shall be directed to the Arbitration Service and will be decided by the Arbitration Special Master. If such request is granted the Arbitration Service shall immediately notify the other party. In such cases, the party requesting the telephonic hearing shall pay all costs associated therewith, including but not limited to, costs for long distance calls, conference calls, and rental of telephone amplification equipment.

(9) The Arbitration Service shall assign arbitrators to the pending cases. The choice of arbitrators is not subject to the approval of either party.

(10) Arbitrators must not have a personal interest in the outcome of any hearing, nor be acquainted with any of the participants except as such acquaintance may occur in the hearing process, nor hold any prejudice toward any party. Arbitrators shall have no current connection to the sale or manufacturer of motor vehicles.

NEW SECTION

WAC 44-10-200 THE ARBITRATION DECISION. (1) The arbitrator shall send, by certified mail, a decision in each case within sixty calendar days of the Notice of Arbitration:

(a) All decisions shall be in writing, dated and signed by the arbitrator, and sent to both parties and the Attorney General;

(b) the date of mailing of the arbitration decision shall determine compliance with the sixty day requirement.

(c) the written decision shall contain findings of fact and a conclusion as to whether the motor vehicle meets the statutory standards for refund or replacement;

(i) if the consumer prevails and has elected repurchase of the vehicle, the decision shall include the calculations used to determine the monetary award as set forth in RCW 19.118.090, 19.118.041 and 19.118.021;

(ii) if the consumer prevails and has elected replacement of the vehicle, the decision shall include the information used to identify a reasonably equivalent replacement vehicle and the costs associated with such vehicle and a description of the vehicle as set forth in RCW 19.118.090, 19.118.041 and 19.118.021;

(iii) if the consumer prevails, the decision shall include provisions for the return of the vehicle upon compliance by the manufacturer at a reasonable time and place.

(2) Included with the copy of the arbitration decision sent to the consumer shall be a form to be completed by said consumer, indicating acceptance or rejection of the decision. The consumer must return said form to the Arbitration Service within thirty calendar days from the date of the consumer's receipt of said notice. If the consumer has not responded within thirty days, the Attorney General's Office shall send a second notice requesting response and informing the consumer that failure to respond within thirty days of receipt of the second notice shall be deemed a rejection of the arbitration decision.

(3) If the consumer rejects the decision, the Arbitration Service shall forward general information to the consumer explaining the consumer's right to appeal the decision to superior court. A form shall be included with the information, and if the consumer files an appeal, the consumer will be requested to return the form to the Attorney General indicating the cause number and county of the filing.

(4) If the consumer accepts the decision, the Arbitration Service shall send a Notice of Acceptance by certified mail to the manufacturer. A Manufacturer's Intent form shall also be sent. The Intent form shall be returned by the manufacturer within thirty calendar days,

of the manufacturer's receipt of Notice of Consumer's Acceptance, to the Attorney General and shall indicate whether the manufacturer intends to comply with the decision or appeal the decision to superior court.

(5) A Verification of Compliance form shall be sent to the consumer by the Attorney General's Office. The Verification of Compliance form shall be completed and returned to the Attorney General by the consumer upon the manufacturer's compliance with the decision.

(6) After forty calendar days from the date of the Notice of Acceptance to the manufacturer, the Attorney General shall determine whether the manufacturer has complied with the arbitration decision or appealed to superior court. If the manufacturer has not complied or appealed, the Attorney General may impose fines authorized by RCW 19.118.090. Information regarding the manufacturer's right to contest the fines shall be provided by the Attorney General.

NEW SECTION

WAC 44-10-210 TECHNICAL CORRECTIONS. (1) The Arbitration Service or the Attorney General may make "technical corrections" to an arbitrator's decision. "Technical corrections" shall generally be defined as computational corrections, typographical corrections, or other minor corrections.

(2) A party may submit to the Arbitration Service a request for technical corrections, in writing, setting forth the requested correction(s) and reason(s). Such request must be received by the Arbitration Service within ten calendar days of the mailing of the arbitrator's written decision.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 88-04-082
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Class H restaurant—Qualifications, WAC 314-16-190;

that the agency will at 9:30 a.m., Tuesday, March 15, 1988, in the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.98.070.

The specific statute these rules are intended to implement is RCW 66.24.400 and 66.24.410(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 15, 1988.

Dated: February 3, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-190 Class H restaurant—Qualifications.

Description of Purpose: Based on a petition from the Restaurant Association of the state of Washington, the proposed rule change would lower the percentage of food sales required to qualify for a Class H license. A second change, housekeeping in nature, clarifies that the food sales referred to in the rule are retail food sales.

Statutory Authority: RCW 66.98.070.

Statutes Implemented by the Rule: RCW 66.24.400 and 66.24.410(2).

Summary of Rule: WAC 314-16-190 establishes the qualifications necessary to obtain and retain a Class H license. The Restaurant Association of the state of Washington is proposing that the food sales requirement of 40 percent of total food-liquor sales be lowered to 30 percent. Another proposed amendment clarifies that the food sales referred to are retail, as opposed to wholesale, sales of food.

Reason Supporting Proposed Action: The proposal to lower the required food sales percentage from 40 percent to 30 percent originated with the Restaurant Association of the state of Washington which filed a petition for the change with the board pursuant to RCW 34.04.060. The reasons advanced in favor of the proposed change are contained in the petition. The second portion of the proposed change to WAC 314-16-190 involves language clarifying that the required food sales are retail sales as opposed to wholesale. This change is purely housekeeping in nature as WAC 314-16-190 has always been construed to relate to retail sales. Recently, a question had arisen as to whether food sold by a restaurant in bulk to another business entity for subsequent resale to the public could be counted toward the Class H food requirements. While the answer was that such wholesale transactions are not includable, the existing language of WAC 314-16-190 was at least ambiguous on this point. As a result, the board wishes to add the clarifying language specifically designating retail sales.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule amendment: Lester C. Dalrymple, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6259; and Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270.

Person or Organization Proposing Rule: The change to the food percentage requirements was proposed by petition from the Restaurant Association of the state of Washington. The clarifying language relating to retail sales was proposed by Liquor Control Board staff.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: The changes proposed by the Restaurant Association of the

state of Washington and the board will not cause any increased paperwork to be done or submitted by licensees. There will be no other negative cost impact as a result of these changes.

AMENDATORY SECTION (Amending Order 160, Resolution No. 169, filed 7/3/85)

WAC 314-16-190 CLASS H RESTAURANT—QUALIFICATIONS. (1) All restaurant applicants for a Class H license, in addition to furnishing all requested material and information relating to the premises applied for and their personal qualifications, shall establish to the satisfaction of the board that the premises will commence as, and continue to operate as, a bona fide restaurant as required by RCW 66-24.400 and 66.24.410(2).

(2) A restaurant applicant for a Class H license shall be subject to the following requirements which are conditions precedent to action by the board on the application:

(a) The applicant shall furnish to the board a detailed blueprint of the entire premises to be licensed drawn to scale of one-fourth inch to one foot. This blueprint shall include the kitchen equipment layout plus a detailed listing of the kitchen equipment and its approximate value.

(b) Prior to delivery of the license the board shall receive a verification from its enforcement officer, based upon an inspection of the premises, that the kitchen equipment designated in ((paragraph)) (a) ((above)) of this subsection is in place and is operational.

(3) In any case where the board has a concern as to the applicant's qualifications, based on the applicant's experience; the adequacy of the proposed facility; the proposed method of operation; the applicant's financial stability; or for any other good and sufficient reason, the board may require such applicant to submit figures reflecting operation as a restaurant for a period to be designated by the board. The submission of these operating figures shall be a condition precedent to the board making a decision on a license application. Any applicant required to submit operating figures for a period designated by the board, shall not thereby be deemed to have acquired a vested right to have the license applied for issued merely because the requested figures have been submitted.

(4) To demonstrate to the satisfaction of the board that a Class H restaurant as defined in RCW 66.24.410(2) is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals, a Class H restaurant shall maintain daily average gross retail food sales of one hundred dollars or more, and such food sales shall amount to ((forty)) thirty percent or more of the restaurant's total food-liquor sales.

(5) Each Class H restaurant licensee shall submit semi-annual reports on forms provided by the board, showing its gross food and liquor sales. If for two successive semi-annual reports, a Class H restaurant's daily average gross retail food sales are less than one hundred dollars, or its retail food sales are less than ((forty)) thirty percent of its total food-liquor sales, such restaurant shall be ineligible to retain its Class H license.

(6) The restaurant area of any Class H restaurant shall be open to the public for service of complete meals at least five days a week, unless otherwise authorized in writing by the board to alleviate demonstrated hardship, and such service of complete meals shall be available to the public for five hours a day on any day liquor is offered for sale, service or consumption, unless otherwise authorized in writing by the board to alleviate demonstrated hardship. At all other times when the restaurant area is not open for service of complete meals, but liquor is offered for sale, service or consumption on the licensed premises, sandwiches and/or short orders of food shall be available for sale to the public.

(7) In the event a Class H restaurant licensee shall fail to comply with any of the foregoing requirements, and such licensee has been notified that they will not be eligible to retain its Class H license, such licensee may petition the board setting forth unusual, extenuating and mitigating circumstances for the failure to comply and the board may consider such reasons and may grant an extension of the Class H license under such terms and conditions as the board determines are in the best interest of the public.

(8) Licensees who presently hold a Class B liquor license and who apply for a Class H liquor license in lieu thereof, in order to demonstrate to the satisfaction of the board that the business such applicant has been operating is primarily that of a restaurant, must submit and establish the following data and information:

(a) Sales figures for ninety days preceding the in lieu application showing total sales, segregated as to the following categories:

- (i) Food sales for on-premises consumption;
- (ii) Food sales for off-premises consumption;
- (iii) Beer and/or wine sales for on-premises consumption;
- (iv) Beer and/or wine sales for off-premises consumption;
- (v) Miscellaneous sales, including but not limited to, cigarettes, candies, packaged snack foods, and where such activity has been conducted the income from games, gambling, cover charges, etc.

(b) That for a period of at least ninety days prior to the date of filing the Class H license application, the gross food sales for on-premises consumption as set forth in (a)(i) of this subsection constituted fifty-one percent or more of total food-liquor sales for on-premises consumption.

While the requirements of (a) and (b) of this subsection must be established before the board will give consideration to the issuance of an in lieu Class H license, the fact that an applicant meets those criteria does not establish a vested right that such license shall issue.

WSR 88-04-083

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Guest and courtesy cards—Visitors, WAC 314-40-040;

that the agency will at 9:30 a.m., Wednesday, March 16, 1988, in the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.24.450.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 16, 1988.

Dated: February 3, 1988

By: Robert D. Hannah

Board Member

STATEMENT OF PURPOSE

Title: WAC 314-40-040 Guest and courtesy cards—Visitors.

Description of Purpose: To permit a person issued a guest card by the club manager to introduce visitors into the club provided the visitors are accompanied at all times by the sponsoring guest card holder; the visitor remains in the club only as long as the sponsoring guest card holder is present; the house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club; and such house rules or bylaws have been filed with the Liquor Control Board.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.24.450.

Summary of Rule: Presently, only a member of a private club may introduce a visitor into the club.

Reason Supporting Proposed Action: A guest card holder is deemed to hold the same privileges as a member. This should include the privilege of introducing visitors into the club.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule amendment: Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 586-3052.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule amendment.

AMENDATORY SECTION (Amending Order 235, Resolution No. 244, filed 12/8/87)

WAC 314-40-040 GUEST AND COURTESY CARDS—VISITORS. (1) Guest cards may be issued only as follows:

(a) For clubs located within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town;

(b) For clubs located outside of any city or town only to those persons residing outside an area fifteen miles from the location of such club: PROVIDED, That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area;

(c) Such guest cards shall be issued for a period not to exceed two weeks and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(d) Mileage restrictions in (~~WAC 314-40-040 (1)~~)(a) and (b) of this subsection shall not apply to contestants in golf or tennis tournaments conducted on the grounds of a licensed club.

(2) Visitors may be introduced when accompanied at all times by a member and may remain as long as such member is present in the club: PROVIDED, That any such visitor may only enjoy the privileges of the club a reasonable number of times in any one calendar year.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization: PROVIDED, That the bylaws of such clubs authorize reciprocal privileges: PROVIDED FURTHER, That (~~WAC 314-40-040~~) subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs: PROVIDED, That the bylaws of such clubs authorize reciprocal privileges: PROVIDED FURTHER, That (~~WAC 314-40-040~~) subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold one public membership function per calendar year where club liquor may be given or sold to those attending as a part of the membership drive activities.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided the visitors are accompanied at all times by the sponsoring guest card holder; the visitors remain in the club only as long as the sponsoring guest card holder is present; the house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club; and, such house rules or bylaws have been filed with the liquor control board.

WSR 88-04-084

NOTICE OF PUBLIC MEETINGS BOARD FOR VOCATIONAL EDUCATION [Memorandum—January 29, 1988]

The Washington State Board for Vocational Education will meet on Thursday, February 18, beginning at 9:00 a.m., in the Conference Room of the WEA Building.

People needing special accommodation, please call Patsi Justice at (206) 753-5660.

WSR 88-04-085

NOTICE OF PUBLIC MEETINGS WHATCOM COMMUNITY COLLEGE [Memorandum—January 27, 1988]

The board of trustees of Whatcom Community College, District Number Twenty-One, will hold its regular meeting at the following time and place: February 9, 1988, Tuesday, 2:00 p.m., Board Room, Cordata Facility, 237 West Kellogg Road, Bellingham, WA 98226.

WSR 88-04-086

NOTICE OF PUBLIC MEETINGS WASHINGTON STATE LIBRARY (Library Commission) [Memorandum—February 2, 1988]

The Washington State Library Commission will hold its 1988 business meetings at the following locations, beginning at 10:00 a.m.

March 17	Timberland Regional Library 415 Airdustrial Way S.W. Olympia, WA
June 9	Walla Walla, Washington area
September 8	Eastern Washington area
December 1	Sea-Tac area

WSR 88-04-087

PROPOSED RULES LIQUOR CONTROL BOARD [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board, intends to adopt, amend, or repeal rules concerning:

Amd	WAC 314-36-010	Sales between liquor importers.
Amd	WAC 314-36-020	Liquor importation—General.
Amd	WAC 314-36-030	Importation by licensed liquor importer.
Amd	WAC 314-36-040	Principal office—Record.
Amd	WAC 314-36-050	Customs bonded locker.
Amd	WAC 314-36-060	Public storage warehouse.
Amd	WAC 314-36-070	Storage of liquor.
Amd	WAC 314-36-080	(Permit) Authorization for private liquor storage warehouse.

Amd	WAC 314-36-090	Liquor shall be stored in original packages.
Amd	WAC 314-36-100	Removal of liquor.
Amd	WAC 314-36-110	Release of liquor.
Amd	WAC 314-36-130	Complete records kept.
Rep	WAC 314-36-120	Perpetual inventory—Copy to board;

that the agency will at 9:30 a.m., Wednesday, March 9, 1988, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030 (1) (2).

The specific statute these rules are intended to implement is RCW 66.08.010, 66.24.260, 66.24.270, 66.24.204, 66.24.200 and 66.24.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1988.

Dated: February 2, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-36-010 Sales between liquor importers; 314-36-020 Liquor importation—General; 314-36-030 Importation by licensed liquor importer; 314-36-040 Principal office—Record; 314-36-050 Customs bonded locker; 314-36-060 Public storage warehouse; 314-36-070 Storage of liquor; 314-36-080 Permit for private liquor storage warehouse; 314-36-090 Liquor shall be stored in original packages; 314-36-100 Removal of liquor; 314-36-110 Release of liquor; 314-36-120 Perpetual inventory—Copy to board; and 314-36-130 Complete records kept.

Description of Purpose: To make this section of rules workable with today's business practices; to clarify the language in the rules by differentiating between spirituous liquor importers, beer importers and wine importers. (The rules as presently written can be confusing in that the rules refer to "liquor" when they mean spirituous liquor. However, the definition of "liquor" in RCW 66.04.010(15) states that "liquor" includes "...alcohol, spirits, wine and beer..."); to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization; to delete WAC 314-36-120 as being an excessive requirement which is covered by other regulations on recordkeeping; to add specific language to WAC 314-36-130 similar to other board rules specifying that records must be preserved for two years; and to delete references to "permit" since a permit is something for which a fee is normally charged, and insert "letter of authorization," for which there is no fee.

Statutory Authority: RCW 66.08.030 (1) (2).

Statutes Implemented by the Rule: RCW 66.08.010, 66.24.260, 66.24.270, 66.24.204, 66.24.200 and 66.24.160.

Summary of Rule: These rules all refer to the importation of liquor and its removal from warehouses to the board or authorized board licensees.

Reasons Supporting Proposed Action: The changes proposed are housekeeping in measure and are made to eliminate old language and replace that language with more specific and easily understood language in order to make the liquor rules more easily read and understood.

WAC 314-36-010, to clarify that this section refers to liquor importers, as authorized by RCW 66.24.160; WAC 314-36-020, to clarify the language in the rule by differentiating between spirituous liquor importers, beer importers and wine importers and to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization; WAC 314-36-030, to clarify that this section refers to liquor importers as authorized by RCW 66.24.160; WAC 314-36-040, to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization; WAC 314-36-050, to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization; WAC 314-36-060, to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization and to delete references to "permit" since a permit is something for which a fee is normally charged, and insert "letter of authorization," for which there is no fee; WAC 314-36-070, to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization; WAC 314-36-080, to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization and to delete references to "permit" since a permit is something for which a fee is normally charged, and insert "letter of authorization," for which there is no fee; WAC 314-36-090, to include beer and wine as products which may be stored in public storage warehouses with appropriate authorization and to make this section of rule workable with today's business practices and allow that liquor may be stored in packages as authorized by the board; WAC 314-36-100, to include beer and wine as products which may be stored and removed from public storage warehouses with appropriate authorization and to delete outdated language referencing a manufacturers import permit and include all persons authorized to receive liquor; WAC 314-36-110, to include beer and wine as products which may be stored and removed from public storage warehouses with appropriate authorization and to delete outdated language referencing a manufacturers import permit and include all persons authorized to receive liquor; WAC 314-36-120, to delete the requirement of a perpetual inventory, perpetual inventories are no longer required of other board licensees. The board itself does not keep a perpetual inventory of all stocks on hand and in 1987 deleted the requirement for breweries, wineries, wholesalers and importers to keep a perpetual inventory, deleting this rule will be consistent with other board actions as the perpetual inventory requirement is an excessive requirement and other recordkeeping requirements are sufficient for control; and WAC 314-36-130, adds the language "two years" as the amount of time records must be kept in order to maintain consistency with other board requirements.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Janice Lee Britt, Supervisor, Manufacturers, Importers and Wholesalers Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6273.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for these rules changes.

AMENDATORY SECTION (Amending Rule 88, filed 6/13/63)

WAC 314-36-010 SALES BETWEEN LIQUOR IMPORTERS. One licensed liquor importer may sell to, or purchase from, or exchange with, another licensed liquor importer, intoxicating liquor for purposes of export only.

AMENDATORY SECTION (Amending Order 214, Resolution No. 223, filed 3/10/87)

WAC 314-36-020 LIQUOR IMPORTATION—GENERAL. No liquor shall be imported into this state unless such liquor be consigned to the Washington state liquor control board; or unless such liquor be consigned to a holder of a liquor, beer or wine importer's license and delivered at a public storage warehouse authorized by the Washington state liquor control board to store liquor, or at the warehouse of the holder of the liquor, beer or wine importer's license in those cases where the board has authorized storage at such warehouse. No carrier shall accept or deliver liquor except in accordance with this regulation (~~(- PROVIDED, HOWEVER, That this regulation shall not apply to importations of beer by the holder of a beer importer's license made under such license, nor to importations of alcohol, malt and other materials containing alcohol made by a manufacturer under the special permit authorized by RCW 66.20.010(2), nor to importations of wine by the holder of a wine importer's license made under such license).~~).

AMENDATORY SECTION (Amending Rule 90, filed 6/13/63)

WAC 314-36-030 IMPORTATION BY LICENSED LIQUOR IMPORTER. Spirituuous liquor imported by the holder of a liquor importer's license may be transferred direct from the importing carrier to an exporting carrier if the consent of the board is first obtained.

AMENDATORY SECTION (Amending Rule 91, filed 6/13/63)

WAC 314-36-040 PRINCIPAL OFFICE—RECORD. Each liquor, beer or wine importer shall establish and maintain a principal office within the state at which shall be kept full and complete records of all importations, storage, removals, and exportations of liquor, such records to be kept in such manner and in such form as the board shall from time to time prescribe. Each liquor, beer or wine importer shall keep the board informed at all times of the location of such principal office.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-050 CUSTOMS BONDED LOCKER. Any public storage warehouse, having a customs bonded locker, and which wishes to accept liquor, (~~(except)~~) including beer or wine, for storage must furnish to the Washington state liquor control board a bond in the penal sum of not less than five thousand dollars in form prescribed by the board, conditioned upon faithful performance and compliance with the Washington State Liquor Act and rules and regulations thereunder, and shall apply for a (~~(permit)~~) letter of authorization so to do.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-060 PUBLIC STORAGE WAREHOUSES. No public storage warehouse shall receive or store or otherwise handle any

liquor, (~~(except)~~) including beer or wine, without first obtaining from the Washington state liquor control board a (~~(permit)~~) letter of authorization so to do.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-070 STORAGE OF LIQUOR. No public storage warehouse shall accept or store any liquor, (~~(except)~~) including beer or wine, except upon the order of a licensed liquor, beer or wine importer or the Washington state liquor control board.

AMENDATORY SECTION (Amending Rule 95, filed 6/13/63)

WAC 314-36-080 (~~(PERMIT)~~) AUTHORIZATION FOR PRIVATE LIQUOR STORAGE WAREHOUSE. Any holder of a liquor, beer or wine importer's license, who maintains a storage warehouse exclusively for the storage of goods, wares or merchandise belonging to such holder, and who desires to store liquor imported under such liquor, beer or wine importer's license, shall apply to the board for a (~~(permit)~~) letter of authorization so to do. Such (~~(permit)~~) authorization shall be granted only upon such terms and conditions as the board shall from time to time prescribe. If such (~~(permit)~~) authorization be granted, such warehouse shall thereafter be known as a private liquor storage warehouse.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-090 LIQUOR SHALL BE STORED IN ORIGINAL PACKAGES. No shipments of liquor (~~(-except beer or wine;))~~ shall be accepted or stored in a private or public storage warehouse except in original packages or combinations of original packages as authorized by the board.

AMENDATORY SECTION (Amending Order 214, Resolution No. 223, filed 3/10/87)

WAC 314-36-100 REMOVAL OF LIQUOR. No liquor (~~(except beer and wine))~~ shall be removed from any storage warehouse, either public or private, except for sale and delivery to the board or for export from the state, or for delivery to persons, firms or corporations (~~(holding manufacturer's importation permits authorized by RCW 66.20.010(5))~~) authorized by Title 66 RCW to receive such liquor products: PROVIDED, HOWEVER, That liquor may be removed from an authorized private liquor storage warehouse to a public storage warehouse, or may be removed from one authorized public storage warehouse to another authorized public storage warehouse, or may be removed from an authorized public storage warehouse to the authorized private liquor storage warehouse of the owner of the liquor. Liquor, beer or wine importers may remove liquor for sample purposes only, but only after permission thereto has been specifically granted by the board or its accredited representatives. Any and all removals of liquor must be made in full compliance with the Washington state liquor laws, Title 66 RCW (Alcoholic beverage control), and the rules and regulations of the board.

AMENDATORY SECTION (Amending Order 214, Resolution No. 223, filed 3/10/87)

WAC 314-36-110 RELEASE OF LIQUOR. No public storage warehouse shall release any liquor (~~(-except beer or wine;))~~ for delivery to anyone other than the Washington state liquor control board or for shipment to a consignee outside the state of Washington, or for delivery to another authorized public storage warehouse, or to the authorized private liquor storage warehouse of the owner of the liquor, or to persons, firms or corporations (~~(holding manufacturer's importation permits authorized by RCW 66.20.010(5))~~) authorized by Title 66 RCW to receive such liquor products: PROVIDED, HOWEVER, That liquor may be delivered to liquor, beer or wine importers for sample purposes under such conditions as the board may from time to time prescribe, and may be delivered to holders of liquor importer's licenses for export under WAC 314-36-010.

AMENDATORY SECTION (Amending Rule 100, filed 6/13/63)

WAC 314-36-130 COMPLETE RECORDS KEPT. Each public storage warehouse shall keep full and complete records showing all liquor received for storage, together with all removals and exportations

thereof, such records to be kept in such manner and in such form as the board shall prescribe, and in case of removal, releases or shipments, shall preserve for two years, subject to the order of the board, all bills of lading or certified copies thereof, and all authorizations of the board for withdrawals of samples.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-36-120 PERPETUAL INVENTORY—COPY TO BOARD.

WSR 88-04-088
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning overissuances, amending WAC 388-49-640;

that the agency will at 10:00 a.m., Tuesday, March 8, 1988, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 9, 1988.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 23, 1988. The meeting site is in a location which is barrier free.

Dated: February 1, 1988
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
 Re: New WAC 388-49-640.

Purpose of the Rule: To require a recalculation of the overissuance amount after a determination of intentional program violation.

Reason this Rule is Necessary: To comply with federal requirements, 7 CFR 273.18 (c)(2)(ii).

Statutory Authority: RCW 74.04.510.

Summary of the Rule or Rule Change: Adds a new subsection (8) which states: After a determination of intentional program violation, the department shall not apply the twenty percent earned income deduction to that portion of earned income which the household intentionally failed to report when determining the monthly allotment the household should have been authorized. This change renumbers subsections following new subsection (8).

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Joan Wirth, Community Services Program Manager 2, Division of Income Assistance, mailstop OB-31C, phone 753-5401.

Person or Organization (if other than DSHS) Who Proposed These Rules: N/A.

These rules are in part necessary as a result of federal requirements, 7 CFR 273.18 (c)(2)(ii).

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-640 OVERISSUANCES. (1) The department shall establish claims and take collection action against households and household members for administrative error, inadvertent household error, or intentional program violation resulting in overissuances except as provided in subsections (3), ~~((9))~~ (10), and ~~((10))~~ (11) of this section.

(2) The department shall establish an overissuance claim against any household:

(a) Receiving more food stamp benefits than it was entitled to receive, or

(b) Containing an adult member who was an adult member of another household receiving more benefits than it was entitled to receive.

(3) The department shall not establish an administrative error claim or an inadvertent household error claim if an overissuance occurred because:

(a) The department failed to ensure the household:

- (i) Signed the application form,
- (ii) Completed a current work registration form, or
- (iii) Was certified in the correct project area.

(b) The household transacted an expired food coupon authorization (FCA) unless the household had altered the FCA.

(4) The department shall hold all persons, who were adult members of the household at the time of the overissuance jointly and severally liable for the overissuance.

(a) The department shall establish an overissuance claim and pursue collection action against any or all of these persons.

(b) If the household composition changes, the department may establish an overissuance claim and pursue collection action against any household containing a person who was an adult member of the household receiving the overissuance.

(5) The department shall not collect more than the amount of the overissuance.

(6) The department shall calculate the allotment the household should have been authorized when the department discovers:

(a) An administrative error or inadvertent household error occurred in the prior twenty-four months, or

(b) An intentional program violation in the prior seventy-two months.

(7) Except as provided in subsection (8) of this section, the amount of the overissuance shall be the difference between:

(a) The monthly allotment actually authorized, and

(b) The monthly allotment the household should have been authorized.

(8) When determining the monthly allotment the household should have been authorized, the department shall not apply the 20 percent earned income deduction:

(a) To that portion of earned income which the household intentionally failed to report;

(b) When the department has determined that the household committed an intentional program violation.

(9) The amount of the household's and/or household member's liability for an overissuance shall be the difference between:

- (a) The amount of the overissuance, and
- (b) Any lost benefits that have not been previously restored or used as an offset.

((+)) (10) The department shall initiate collection action on all inadvertent household or administrative error claims unless:

- (a) The claim is collected through offset,
- (b) The total amount of the claim is less than thirty-five dollars and the claim cannot be recovered by reducing the household's allotment,
- (c) The department cannot locate the liable household, or
- (d) The department determines collection action will prejudice an inadvertent household error claim case being referred for possible prosecution or administrative disqualification.

((+)) (11) The department shall initiate collection action against the liable household whose member is found to have committed an intentional program violation unless:

- (a) The household has repaid the overissuance,
- (b) The department cannot locate the household, or
- (c) The department determines collection action will prejudice the case against a household member referred for prosecution.

((+)) (12) The department shall initiate collection action by providing the household a demand letter.

((+)) (13) A household or household member may repay an overissuance except as provided in subsections ((+)) (14) through ((+)) (18) of this section by:

- (a) A lump sum,
- (b) Regular installments under a payment schedule agreed to by the household or household member and the department, and/or
- (c) Allotment reductions.

((+)) (14) When the allotment reduction is the method of collection, the department shall reduce a currently participating household's allotment to repay an:

- (a) Inadvertent household error overissuance by the greater of:
 - (i) Ten percent of the household's monthly allotment, or
 - (ii) Ten dollars per month.
- (b) Intentional program violation overissuance by the greater of:
 - (i) Twenty percent of the household's monthly entitlement, or
 - (ii) Ten dollars per month.
- (c) Administrative error overissuance by the amount agreed to by the household.

((+)) (15) A household member and/or the department may request the payment schedule be renegotiated.

((+)) (16) The department shall ensure the negotiated monthly installment amount is not less than the amount which could be recovered through allotment reduction when:

- (a) A current participating household is liable for an inadvertent household error or an intentional program violation, and
- (b) An installment payment schedule is the method of collection.

((+)) (17) The department shall reduce the allotment to repay an inadvertent household error or an intentional program violation overissuance without additional notice if, after notification of failure to make payment in accordance with a repayment schedule, the household member fails:

- (a) To make the overdue payments, or
 - (b) To request renegotiation of the payment schedule.
- ((+)) (18) The department shall reduce the household's allotment if:

- (a) The household member fails to respond to the demand letter within thirty days of the date the notice is mailed, and
- (b) The household is liable for an inadvertent household error or an intentional program violation claim.

((+)) (19) The department shall suspend collection action when:

- (a) Collection action has not been initiated as provided in subsection ((+)) (10) of this section,

- (b) A liable household member cannot be located, or
- (c) The cost of further collection action is likely to exceed the amount that can be recovered.

((+)) (20) The department may accept offers of compromise for overissuances when:

- (a) The department has already established the account receivable for the overissuance and taken steps to recover the overissuance; and
- (b) The amount offered approximates the net amount expected to be collected prior to the expiration of the collection period allowed by statute.

((20)) (21) The department shall write-off amounts from its account receivable records and release any applicable liens prior to the expiration of the collection period allowed by statute when there is:

- (a) No further possibility of collection;
- (b) An account receivable balance after payment of an accepted offer of compromise; or
- (c) An account receivable balance after a claim has been in suspense for three consecutive years, as provided in subsection ((+)) (19) of this section.

WSR 88-04-089
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning family independence program, amending chapter 388-77 WAC;

that the agency will at 10:00, Tuesday, April 5, 1988, in the OB-2, Auditorium, 12th and Franklin, Olympia, and at 10:00, Wednesday, April 6, 1988, in the North Auditorium, 4th Floor, 915 2nd Avenue, Federal Building, Seattle, and at 9:30, Thursday, April 7, 1988, in the Auditorium, Room 140, Health Department, West 1101 College Avenue, Spokane, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 8, 1988.

The authority under which these rules are proposed is chapter 74.21 RCW.

The specific statute these rules are intended to implement is chapter 74.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: February 3, 1988
 By: Rosemary Carr
 for Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: New chapter 388-77 WAC.

Purpose of the Rule or Rule Change: To implement the family independence program (FIP).

Reason this Rule is Necessary: To meet legislative mandate SHB 448, April 14, 1987.

Statutory Authority: Chapter 74.21 RCW.

Summary of the Rule or Rule Change: Establish the eligibility rules for FIP. FIP is a five-year demonstration as an alternative to public assistance through economic independence for employable adults.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Dave Andersen, Program Manager, DIA, Office of Policy and Program Development, phone 753-4166, scan 234-4920, mailstop OB-31C.

These are not necessary as a result of federal law, federal court decision or state court decision.

Chapter 388-77 WAC
FAMILY INDEPENDENCE PROGRAM

NEW SECTION

WAC 388-77-005 GENERAL PROVISIONS. (1) The following rules are adopted under authority of chapter 74.21 RCW.

(2) All decisions related to eligibility, participation, and work and training activities are subject to fair hearing rules according to chapter 388-08 WAC.

NEW SECTION

WAC 388-77-010 DEFINITION. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter. When using the definition for child, parent, stepparent, etc., this can stand for either singular or plural.

(1) "Adequate notice" means the department shall provide a written notice to applicants or enrollees of any agency action to deny, award, reduce, terminate, increase, or suspend benefits or to change the manner or form of payment or of any agency action requiring an applicant or recipient to take any action. The notice will include:

- (a) What action the department intends to take;
- (b) The facts relating to the decision;
- (c) The policy supporting the action;
- (d) The right to a fair hearing; and
- (e) The circumstances under which assistance is continued if a hearing is requested.

(2) "Advance notice" means the notice is mailed at least ten calendar days before the effective date of a proposed action. The advance notice period begins the day the notice is mailed and extends until the effective date of the proposed action.

(3) "Alien" means a person lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203 (a)(7), section 207(c), section 208, or section 212 (d)(5) of the Immigration and Nationality Act) except:

- (a) An alien attaining temporary resident status (TRS) or permanent resident status (PRS) under the Immigration Reform and Control Act of 1986 (IRCA) is not eligible for FIP for five years from the date TRS was granted unless the alien is Cuban or Haitian; and
- (b) Cuban and Haitian entrants attaining TRS or PRS under IRCA may immediately receive FIP if otherwise eligible.
- (4) "Applicant" means any person or member of a family unit who requests FIP cash assistance.
- (5) "Application" means the submission to the department of the completed request for assistance.
- (6) "Benchmark standard" means the basic monthly level of cash benefits, established according to family size, which equals the state's payment standard under the aid to families with dependent children program, plus an amount not less than the full cash equivalent of food stamps for which any family of such size would otherwise be eligible.

(7) Budget cycle includes:

(a) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and the department are reasonably certain will be received during the month of issuance;

(b) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income which existed in the corresponding report month of the budget cycle; and

(c) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(8) "Canadian Indian" (a North American Indian born in Canada) is considered the same as a United States citizen when he or she has:

- (a) At least 50 percent Indian blood; or
- (b) Less than 50 percent Indian blood and entered the United States prior to December 24, 1952; and
- (c) Maintained residence since entry.

(9) "Certification date" means the date the department certifies changes in a recipient's circumstances and authorizes an action affecting FIP cash assistance.

(10) "Child" means a person under 18 years of age.

(11) "Client" means an applicant or recipient of financial, medical, or social services from the department.

(12) "Date of application" means the date the department receives a completed request for assistance.

(13) "Department" means the department of social and health services.

(14) "Dependent" means spouse, minor children or stepchildren, full-time students eighteen years of age through twenty-one years of age, and/or disabled son or daughter of the applicant/recipient.

(15) "Earned income reporting cycle" includes:

(a) "Report month" means the first calendar month of the earned income reporting cycle and is the month for which the recipient reports earned income;

(b) "Payment month" means the calendar month for which payment is made; and

(c) "Process month" means the calendar month between the report month and the payment month and is the month in which the earned income report is received and processed.

(16) "Earned income tax credit (EIC)" means a refund of taxes allowed by IRS to low-income employed persons. EIC may be either:

- (a) Added to the yearly tax refund; or
- (b) Allowed as an advance monthly payment by reduction of social security (FICA) and withholding taxes.

(17) "Encumbrances" means any mortgage, claim, lien, charge, or other legally enforceable liability; e.g., past due taxes, attaching to and binding upon property.

(18) "Enrollee" means the head of household and/or family member of a family eligible to receive financial assistance or other services under the family independence program.

(19) "Entitlement" means any form of benefit, such as compensation, insurance, pension retirement, military, bonus allotment, allowance payment in cash or its equivalent in which an applicant/recipient may have a claim or interest recognized by law.

(20) "Equity" means fair market value less legally enforceable encumbrances.

(21) "Exception to policy" means approval by the secretary's designee to waive a rule in Title 388 WAC for a specific client experiencing an undue hardship as a result of that rule. Such a waiver shall not be contrary to statute.

(22) "Extension" means noncash benefits the recipient is eligible to receive after eligibility for cash assistance no longer exists.

(23) "Fair hearing" means an administrative proceeding under chapter 34.04 RCW by which the office of administrative hearings hears and decides the appeal of an applicant/recipient from an action or decision of the department.

(24) "Fair market value" means the current market price of the property.

(25) "Family independence program services" includes job readiness programs, job development, employment, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training on management of finances and use of credit.

(26) "FIP cash assistance" means the grant payment of a warrant payable to the applicant/recipient or to the protective payee.

(27) "FIP noncash benefits" means benefits the applicant/recipient receives from the department in the form of medical or noncash child care.

(28) "Food stamps" means the food purchase benefit available through the U.S. Department of Agriculture.

(29) "Full-time employment" means working 150 or more hours per month.

(30) "Good faith effort to sell" means listing property with a multiple listing agency, posting signs, advertising in local newspapers, and/or any reasonable attempts to sell property.

(31) "Gross income" means the total income of an enrollee from earnings before deductions, cash assistance, and incentive benefit payments.

(32) "Half-time employment" means working 75 or more, but less than 150, hours per month.

(33) "Home" means real property owned and used by the applicant as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, including property normally considered and used as a part of a home, such as:

(a) Yard and home garden space;

(b) Road to get to the home;

(c) Right of way to and land holding a water supply;

(d) Outbuildings and land on which they are located serving a normal and useful function of the home, such as garage, woodshed, chicken house, barn, pasture for cow, etc. In this connection, the use of necessary land and building to produce self-consumed products is considered as a reasonable part of the home property.

(34) "Incapacity" refers to the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss as documented by a current physician's statement when:

(a) A person cannot be expected to work at gainful employment more than one-half the time customarily required of fully employable persons; or

(b) The person cannot perform necessary homemaking activities and/or provide adequate care for the children without help from other individuals; or

(c) A person with limited skill and abilities is working more than half time in a special workshop or special work arrangement for handicapped individuals and the work is not fully competitive; or

(d) The incapacity is expected to last for a period of thirty days or more from the date of application.

(35) "Incentive benefit payments" means those additional benefits payable to enrollees due to their participation in education, training, work programs, or employment.

(36) "Income" means all income from whatever source and includes:

(a) "Earned income" is wages, salary, commissions, or profit from activities in which the individual is engaged as a self-employed person or as an employee; and

(b) "Unearned Income" means cash received by household members from sources other than employment or self-employment.

(37) "Initial grant" means the first payment after filing a FIP application.

(38) "Job" means a regularly performed lawful activity which generates a cash benefit for the enrollee.

(39) "Living in home of relative" means the child is an accepted member of a family unit and has a close, direct relationship with a specified relative who has assumed parental responsibility for the care, guidance, and control of the child.

(40) "Lump-sum payment" means a one-time nonrecurring payment such as an income tax refund, rebate, retroactive lump sum social security, SSI, PA, railroad retirement, or other payment, or lump sum insurance settlement, or refund of a security deposit on rental properties or utilities.

(41) "Need" is the difference between the applicant's or recipient's financial requirements for the assistance unit as measured by the standards of the department and the value of all nonexempt resources and nonexempt net income received by or available to the assistance unit.

(42) "Net income" means gross income less deductions.

(43) "Nonrecurrent income" means one-time payment received on an irregular basis.

(44) "Overpayment" means FIP cash assistance, food assistance, and/or medical benefits received by a FIP assistance unit in excess of the amount for which the unit was eligible. An overpayment includes:

(a) "Intentional overpayment" means an overpayment resulting from a willful or knowing intent of the recipient to receive or retain benefits to which the recipient is not entitled;

(b) "Unintentional overpayment" means an overpayment that is not attributed to the applicant's/recipient's willful intent to defraud the department.

(45) "Parent" means a natural parent, stepparent, or adoptive parent or a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (chapter 26.26 RCW) or a person whose parentage has been established by court order. Contested parentage may only be determined by a court of law.

(46) "Personal property" means any form of property that is not real property.

(47) "Qualifying parent" means the parent in a two-parent household that earned the greater amount of income in the last 24-month period immediately preceding the month in which the application for FIP assistance is filed.

(48) "Quick sale value" or "forced-sale value" means the value at which the property can be converted into cash almost immediately, and without waiting for the best offer.

(49) "Real property" means land, buildings thereon, and fixtures permanently attached to such buildings.

(50) "Reasonable value" means the quick sale value for property, goods, or services as of the date of transfer.

(51) "Recipient" means any person receiving FIP cash and noncash assistance and, in addition, those dependents whose needs are included in the recipient's assistance.

(52) "Relatives of specified degree" means:

(a) Maternal and paternal (when relationship has been established), including those of half blood;

(i) Immediate relatives: Mother, father, uncle, aunt, first cousin, nephew, or niece;

(ii) Relatives of preceding generations as denoted by the prefixes grand, great, or great-great.

(b) Sister, brother, stepmother, stepfather, stepsister, stepbrother;

(c) Persons (and their relatives) who legally adopt a child;

(d) Spouse of any person identified above even though the marriage is terminated by death or divorce.

(53) "Recurrent" means something predicted to occur at regular intervals.

(54) "Resident" means:

(a) A person who is voluntarily residing in the state of Washington and intends to make Washington his or her home; or

(b) A person who is voluntarily residing in the state and is not receiving assistance from another state; or

(c) A person who is temporarily absent from the state of Washington for specific purposes and is not receiving assistance from another state, but does not intend to change residence, and plans to return to Washington at a future date.

(55) "Resource" means any asset owned by and available to an applicant/recipient that can be applied toward meeting financial need.

(a) "Exempt resource" means a resource the department does not use in computing FIP cash assistance.

(b) "Nonexempt resource" means a resource the department counts in determining FIP cash assistance.

(56) "Sponsor" means any person or public or private organization executing an affidavit or affidavits of support or similar agreement on behalf of an alien, who is not the child of the sponsor or the sponsor's spouse, as a condition of the alien's entry into the United States.

(57) "Strike" means a concerted stoppage of work by employees including a stoppage by reason of the expiration of a collective-bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees.

(58) "Subsidized employment" means employment for which FIP has provided the employer the financial resources, in whole or in part, to compensate an enrollee for the performance of work.

(59) "Suspension" means a temporary interruption by the department of 30 days or more of FIP cash benefits.

(60) "Transfer of property" means a conveyance of title and/or interest in property from one person to another.

(61) "Underpayment" means payment of less cash assistance than the recipient was entitled to receive.

(62) "Unsubsidized employment" means employment for which FIP has not provided the employer the financial resources to compensate an enrollee for the performance of work.

(63) "Used and useful property" means property which currently serves a practical purpose for an applicant or recipient.

(64) "Visit" means the recipient expects to be absent from the local office area of residence for not more than 90 days.

(65) "Warrant" means the state treasurer's warrant issued in payment of a grant.

NEW SECTION

WAC 388-77-015 APPLICATION. (1) The department shall:

- (a) Accept a request for assistance from anyone wishing to apply; and
- (b) Act upon the application promptly within 30 days.
- (2) A person may apply in his or her own behalf or in behalf of his or her dependents.
- (3) A legal guardian or person otherwise legally eligible for FIP may apply in behalf of minors or incompetent persons.
- (4) Any other person acting in behalf of the applicant may apply when the applicant cannot make application. The applicant's representative shall indicate the reason for initiating the application on behalf of the applicant.
- (5) The department shall:
 - (a) Give the applicant sufficient opportunity to make his or her pertinent needs known;
 - (b) Inform the applicant of available services;
 - (c) Inform the applicant of his or her legal rights and responsibilities;
 - (d) Determine eligibility or ineligibility on a factual and objective basis according to the rules and procedures of the department;
 - (e) Record pertinent facts;
 - (f) Provide adequate notice of the decision on the application and reasons for the decision;
 - (g) Give the applicant the department's pamphlet on fair hearings and a brief explanation of rights and procedures in regard to fair hearings; and
 - (h) Provide the applicant with a written acknowledgement of receipt of the application at the time of application.

NEW SECTION

WAC 388-77-020 APPLICATION—RECORDING AND DOCUMENTING. (1) The department shall:

- (a) Assist an applicant when necessary in the completion of the application;
- (b) Inform the applicant of the penalties of perjury at the time the applicant signs the application;
- (c) Require the signature of the applicant on the request for FIP. The applicant and spouse, if residing together, shall sign all forms;
- (d) Require the signature of two witnesses when the applicant's signature is by mark; and
- (e) Require the applicant to initial and date any correction or deletions made on a signed application.
- (2) The applicant shall:
 - (a) Submit a completed application as designated by the department before the department will assess eligibility;
 - (b) Apply in person at the local office in his or her area. The department may take applications in the applicant's home if an applicant is unable to come to the office;
 - (c) Include in the application all children residing in the home whether or not financial assistance is being requested for all the children; and
 - (d) Include the dependent who is 18 years of age and less than 22 years of age who is being included in the assistance unit as a result of his or her full-time student status.

NEW SECTION

WAC 388-77-025 APPLICATION—RESPONSIBILITY FOR PROVIDING INFORMATION. (1) The applicant shall:

- (a) Complete and submit application forms; and
- (b) Provide statements and necessary verification to support the application. The department shall allow the applicant a reasonable time, but not less than 10 calendar days, to provide statements in support of the application.
- (2) The department shall extend the time for the applicant to provide support documents when:
 - (a) The applicant has provided some but not all of the requested information; or
 - (b) The department requests additional information after the initial interview. In such cases the department shall provide written notification of the specific additional information required and give no less than an additional 10 calendar days to respond; or

(c) The applicant requests orally or in writing additional time to provide statements in support of the application.

(3) In cases where the applicant has not provided all the requested information, the department shall notify the applicant in writing as to the required information and allow no less than 10 additional calendar days to provide the requested information.

(4) When the applicant fails to provide requested statements within the initially specified or extended period, the department shall:

- (a) Evaluate all available information, and
- (b) Determine eligibility for financial assistance according to applicable rules.

NEW SECTION

WAC 388-77-030 TIME LIMIT FOR DISPOSAL. (1) The time limit from the date of application to the date of disposal action is 30 days. In applying this rule, the day application is made is not counted. Each application shall be acted upon as quickly as possible, and within applicable time limits unless exceptional circumstances constituting good cause in an individual case require a longer period of time.

(2) Exceptional circumstances, considered to be good cause for delay in disposing of an application include, but are not limited to, the following:

(a) The applicant fails to provide requested verification within 10 days of a written request;

(b) Eligibility depends upon correspondence because of out-of-state or intercity contacts and no other verification is available for the eligibility factor.

(3) When one or more exceptional circumstances exist as specified in subsection (2) of this section, good cause for delay in processing an application exists only if all the following conditions have been met:

(a) The department has notified the applicant in writing within 20 days of the date of application of each specified piece of information needed for processing the application; and

(b) The department notified the applicant in writing of the specific information or action needed within five working days of the date the department determined additional information was needed; and

(c) The department determined eligibility and disposed of the application within five working days of the date the department received information necessary to determine eligibility; and

(d) The department determined whether or not good cause for delay exists and documented such determination in the case record on or before the date the time limit for processing the application expired.

NEW SECTION

WAC 388-77-035 DISPOSITION OF APPLICATION. (1) The department shall dispose of a FIP application by:

- (a) Approval when the applicant is eligible for assistance;
- (b) Denial when:
 - (i) The applicant is ineligible for assistance; or
 - (ii) There is not sufficient verifying information to establish eligibility; or
 - (iii) The applicant fails to report for two scheduled interviews and the applicant has not contacted the department to reschedule the interviews within 30 days from the date of application.
- (c) Withdrawal when:
 - (i) The applicant voluntarily requests orally or in writing that the application is not to be considered further; or
 - (ii) Death occurred before determination of eligibility was completed.

(2) When denial is due to the applicant's failure to provide sufficient information to allow the department to establish eligibility, the department shall deny on the basis that eligibility cannot be established based on the information submitted by the applicant.

(3) The department shall allow the applicant 30 days from the date of the denial notice to provide all specified information that was not provided.

(4) If the applicant provides the necessary information within the 30-day period, and the department has sufficient information to establish eligibility, the department shall:

- (a) Establish eligibility, and
- (b) Rescind the denial, and
- (c) Approve assistance based upon the denied application.

(5) The department considers:

- (a) An approved application to be disposed of on the date a document authorizing assistance payment is correctly processed; or

(b) A denied or withdrawn application to be disposed of on the date the department gives or mails written notice to the applicant.

(6) If an applicant requests a fair hearing to contest the denial, the issue in such hearing shall be whether the applicant can establish eligibility.

(7) If an applicant is denied FIP cash assistance, the department shall determine eligibility for nonassistance food stamps, medical assistance, and any other cash assistance programs administered by the department.

NEW SECTION

WAC 388-77-040 APPLICATION NOTICE. (1) The department shall notify the applicant of eligibility for continuing assistance. The notice shall include the following information:

- (a) The date of the decision;
 - (b) The effective date the local office authorizes payment of the first regular grant;
 - (c) The amount of assistance authorized; and
 - (d) The right to a fair hearing.
- (2) The department shall notify the applicant of the denial or withdrawal action except for a withdrawal due to an applicant's death. The notice shall include the following information:
- (a) The basis for the decision;
 - (b) The rules supporting such action;
 - (c) What information the department requested that the applicant did not provide, if applicable;
 - (d) That the department could not establish eligibility for FIP based on the information provided; and
 - (e) That, where the applicant provided insufficient information, the department will redetermine eligibility within 30 days if:
 - (i) The applicant provides all specified information requested; and
 - (ii) The applicant's circumstances have not changed since the date of the denial notice.
 - (f) The date of the decision; and
 - (g) The right to a fair hearing. The letter need not include notice of right to a fair hearing when the applicant gives written notice of withdrawal including a statement to that effect on the application.

NEW SECTION

- WAC 388-77-045 VERIFICATION.** (1) The department shall:
- (a) Verify the following factors at the time of application:
 - (i) Name,
 - (ii) Social security number,
 - (iii) Alien status, and
 - (iv) Income.
 - (b) Conduct a face-to-face interview with the applicant or, if direct contact with the applicant is impractical, with someone representing the applicant;
 - (c) Verify all other factors of basic eligibility when:
 - (i) Information contradicts or conflicts with other statements made by the client; or
 - (ii) The department receives information from a third-party source that contradicts or conflicts with statements made by the client; or
 - (iii) Professional judgment would question the accuracy of the information.
 - (d) Use the applicant's statement of circumstances as the first source of information in determining eligibility;
 - (e) Inform the applicant of the obligation to secure necessary documentation whenever it is reasonably possible for the applicant to do so;
 - (f) Assist the applicant/recipient in obtaining sufficient information to determine eligibility whenever the applicant/recipient is unable to do so and has made a reasonable attempt to obtain the information;
 - (g) Request the applicant to provide available documents sufficient to determine eligibility;
 - (h) Inform the applicant that the department has the right to obtain substantiating evidence from other sources;
 - (i) Obtain substantiating evidence from other sources, such as statements from persons other than the applicant, attested to under penalty of perjury, when the applicant is unable to provide verification necessary to establish eligibility;
 - (j) Determine eligibility for assistance based upon professional judgment and all available evidence when verification for one or more factors is not obtained. If eligibility cannot be reasonably established, the department shall deny assistance;
 - (k) Conduct a yearly face-to-face interview with the recipient for redetermination of eligibility; and

(1) Accept and consider all alternative verification for an eligibility factor in determining eligibility.

(2) The department shall not:

- (a) Require the applicant/recipient to provide a specific type of verification if the information available is sufficient;
- (b) Require reverification of stable factors that have been previously verified;
- (c) Require a verification document for which a fee is charged unless the department authorizes payment for such fee; or
- (d) Deny or delay an application because of an applicant's failure to provide a specific type or form of verification or to provide verification items not included in subsection (1) of this section.

NEW SECTION

WAC 388-77-055 EXPEDITED SERVICES. The department shall:

- (1) Follow the nonassistance food stamp expedited services criteria in chapter 388-49 WAC, when eligibility for FIP cash assistance cannot be determined within the required expedited service time frame; and
- (2) At the time the initial FIP cash assistance is issued, the department shall provide any food stamp benefits that the applicant would be eligible for under FIP minus any amount of food stamps which may have been previously authorized for that month.

NEW SECTION

WAC 388-77-065 PROGRAM PREFERENCES. An individual who is eligible for FIP benefits and who also is eligible for SSI benefits has the right to elect which program's benefits he or she wishes to claim. An individual may not receive FIP and SSI cash assistance concurrently.

NEW SECTION

WAC 388-77-200 FAMILY INDEPENDENCE PROGRAM (FIP)—SUMMARY OF ELIGIBILITY CONDITIONS. (1) The department shall provide FIP cash assistance on behalf of a child, as defined in WAC 388-77-010, who is:

- (a) A resident of the state of Washington, or who resides with a parent or other relative who is a resident of the state of Washington; and
 - (b) Residing in the home of a relative of specified degree; and
 - (c) A United States citizen, Canadian Indian as defined in WAC 388-77-010, or alien lawfully admitted for permanent residence in the United States as defined in WAC 388-77-010; and
 - (d) In financial need as defined in WAC 388-77-500.
- (2) The department shall grant FIP cash assistance to an eligible single, separated, or divorced pregnant woman with no other children.
- (3) The department may grant FIP cash assistance to the assistance unit for a dependent 18 years of age through 21 years of age:
- (a) Who is a full-time high school student; or
 - (b) Who is in a full-time vocational or technical training program.
- (4) For persons to be included in the FIP assistance unit, see WAC 388-77-210.
- (5) The department shall provide FIP cash assistance to a child with two parents in the home when one parent:
- (i) Is incapacitated; or
 - (ii) Is the qualifying parent as defined in WAC 388-77-240.
- (6) The department shall not provide FIP cash assistance to a child or relative of specified degree who receives assistance from another state.

NEW SECTION

WAC 388-77-210 FAMILY INDEPENDENCE PROGRAM—ASSISTANCE UNIT. The department shall pay FIP cash assistance on an assistance unit basis.

- (1) The department shall include the following individuals in an assistance unit when they reside together:
- (a) The child and the child's:
 - (i) Parent;
 - (ii) Natural, adoptive, or half siblings; and
 - (iii) Stepsiblings when requested by the relative of specified degree.
- (2) The department shall include the following individuals in an assistance unit:
- (a) A minor parent up to 20 years of age;
 - (b) The minor parent's child;

- (c) The minor parent's eligible full, half, or adoptive siblings; and
- (d) The minor parent's parent who is in need of assistance.
- (3) The department shall establish a single assistance unit for:
 - (a) Only the eligible child, including siblings and half-siblings, when:

- (i) The child's parent is not eligible; or
- (ii) The child resides with a nonneedy relative of specified degree not legally responsible for the support of the child; or
- (iii) The child resides with a needy relative of specified degree receiving SSI.

(b) The eligible parent, or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because the child or all the children receive SSI;

(c) Both parents when the woman is pregnant and has no other child;

(d) A single, separated, or divorced pregnant woman who has no other child;

(e) When the minor parent's parent is not in need;

(f) The minor parent and the minor parent's child and the minor parent's spouse if the minor parent's spouse resides in the home.

(4) The department shall establish two assistance units when:

(a) The child resides with a nonresponsible relative of specified degree who is a member of another assistance unit; or

(b) Two or more persons not married to each other and each has his or her own child, and no child in common.

(5) When a relative of specified degree is eligible to receive assistance for two or more children for whom he or she is not legally responsible:

(a) Establish one assistance unit for each group of children who are natural, adoptive, or half siblings; and

(b) Establish a separate assistance unit for each of the other children who are not siblings. The exception is a child who is not a sibling and is the child of a minor parent and the minor parent resides in the home. In that case, the child shall be included in an assistance unit as specified in subsection (1) of this section.

(6) At the option of the family, the department may include the following individuals in a single assistance unit with the eligible child if the following individual resides in the family home:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the child, if a parent does not reside in the family home;

(b) The stepbrothers or stepsisters of a child included in the assistance unit.

(7) The department shall not include the following individuals in the assistance unit:

(a) Recipients of SSI benefits;

(b) Aliens not meeting the citizenship and alienage requirements;

(c) Individuals under sanction for noncooperation with child support enforcement as provided in WAC 388-77-275 and 388-77-280; and

(d) Individuals under sanction for noncooperation with FIP assessment activities.

(8) Eligibility for FIP does not exist when:

(a) Any parent or stepparent with whom the child lives is participating in a strike on the last day of the month; or

(b) The only child or all children in an assistance unit is participating in a strike on the last day of the month.

(9) When a child with siblings is on strike, the department shall determine if eligibility exists for the remaining members of a household without regard to the needs of the child on strike.

NEW SECTION

WAC 388-77-215 PROVISION OF SOCIAL SECURITY NUMBERS. (1) As a condition of eligibility, each applicant/recipient shall be required to:

(a) Furnish a social security number for all persons whose needs are considered in determining the amount of assistance, or

(b) Apply for social security numbers when the numbers are unknown or have not been issued.

(c) Report promptly and accurately any new social security number within 20 days of its receipt.

(2) The department shall not deny, delay, or terminate assistance pending issuance of social security numbers if the applicant/recipient has made application for a social security number.

(3) The department shall exclude from the assistance unit the person for whom a social security number is not available or for whom an application for a social security number has not been made.

(4) The department shall assist the applicant to obtain a social security number by referring the applicant to the nearest social security office and giving to the applicant any verification from the department's records which may assist the social security administration.

NEW SECTION

WAC 388-77-240 FIP—ELIGIBILITY FOR QUALIFYING A PARENT. (1) A child residing with two parents, when neither is incapacitated, shall be eligible for FIP under the following conditions:

(a) The department shall consider the earnings of both parents in determining the qualifying parent;

(b) The qualifying parent is that parent earning the greater amount of income in the last twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed;

(c) The household shall designate the qualifying parent if both parents earned an identical amount of income, or had no earnings;

(d) The designated qualifying parent remains the qualifying parent for each consecutive month the family remains on assistance;

(e) To qualify for FIP, the qualifying parent:

(i) Shall not be employed more than 100 hours a month except for intermittent temporary jobs; and

(ii) Shall have been unemployed for at least 30 days prior to the date FIP is authorized.

(f) The qualifying parent shall not have:

(i) Refused a bona fide offer of employment or training for employment; or

(ii) Voluntarily left a job without good cause during the 30 days prior to the date FIP is authorized.

(2) The department shall consider the following conditions good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the qualifying parent to satisfactorily perform the work required;

(b) Inability of the qualifying parent to get to and from the job without undue cost or hardships to them;

(c) The nature of the work would be hazardous to the qualifying parent;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of a labor dispute; or

(f) Adequate child care is not available.

(3) The qualifying parent, if eligible for unemployment compensation, shall not have refused to apply for or accept such compensation;

(4) The child shall be residing with both parents except that one parent may be temporarily absent for up to 90 days to search for employment with the expectation of continuing to reside with the family. The absent parent shall meet the requirements in WAC 388-77-245;

(5) FIP shall not be denied or terminated solely because the qualifying parent works over 100 hours while participating in:

(a) Institutional work experience training; or

(b) A public service employment and training program.

NEW SECTION

WAC 388-77-245 ELIGIBILITY CONDITIONS APPLICABLE TO FIP—RESIDING IN HOME OF RELATIVE OF SPECIFIED DEGREE. To be eligible for FIP:

(1) The dependent child shall be residing with one or more of the relatives of specified degree as defined in WAC 388-77-010.

(2) The department shall determine the relationship of the caretaker relative to the child.

(3) The department shall consider a child as residing in the home of a relative of specified degree when:

(a) The child is temporarily separated from the parent for any reason, including separations where:

(i) The child or the responsible relative is being cared for in a hospital or institution when the illness is such that a return to the family can be expected and parental responsibility continues. If the temporary care of the child or responsible relative exceeds 90 days, the monthly FIP cash assistance shall be as specified in WAC 388-77-615.

(ii) The child is attending school primarily for the purpose of obtaining an education or vocational training and the responsible relative shall retain full responsibility for the child and the child returns home during a year's period, at least for summer vacation. The monthly FIP cash assistance for a child attending school away from home shall be as specified in WAC 388-77-615. However, even temporary absence

of the child from home for this purpose makes the child ineligible for FIP unless the attendance at the school is due to:

(A) Need for specialized education and training not available in the child's home community, and such specialized education is recommended by local school authorities, or

(B) Isolation of the child's home makes it necessary for the child to be away from home to attend school.

(C) Enrollment in an Indian boarding school administered through the bureau of Indian affairs (BIA).

(b) The child or responsible relative visits away from home for 90 days or less;

(c) A responsible relative must reside temporarily apart from his or her family to secure approved vocational training and he or she plans to return to the home upon completion of training; and

(d) The child is temporarily placed in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed 30 days.

(4) The department may make a FIP payment for a child who is a ward of the juvenile court, or other agency to whom the court has delegated authority, if all other eligibility factors have been met and the relative of specified degree actually carries out the everyday care, control, and supervision of the child.

(5) The department shall not make a FIP payment if the court, or other agency to whom the court has delegated authority, has physical custody of the child and carries out the actual day-to-day care, control, and supervision of the child.

(6) The department may make a FIP payment to the caretaker relative on behalf of a child even if the child is in foster care. The caretaker relative may apply for and receive FIP for himself or herself and the child for 30 days, even though the child is not physically in the custody of the relative if:

(a) The caretaker relative is otherwise eligible;

(b) The child is returned to the relative's home before the end of the 30-day assistance period; and

(c) The department is not making public assistance cash payments for the child, either in another relative's home or through foster care, in the same 30-day period.

NEW SECTION

WAC 388-77-255 FIP—EMPLOYMENT AND TRAINING REQUIREMENTS. (1) The department shall require all FIP enrollees to participate in assessment activities with the following exceptions:

(a) An enrollee who is on FIP assistance for the first time and until he or she has been on FIP assistance for six months;

(b) A person under 16 years of age or over 64 years of age;

(c) A person over 16 years of age who is in high school;

(d) A person who is incapacitated, temporarily ill, or is needed at home to care for an impaired person; and

(e) A person who is in the third trimester of pregnancy.

(2) The department shall impose the following sanctions on a person required to complete an assessment who fails to comply with assessment activities without good cause:

(a) The person shall be ineligible for three months for the first refusal to cooperate; and

(b) The person shall be ineligible for six months for the second and each subsequent refusal; and

(c) Sanction status stops when the enrollee completes an assessment.

(3) When an enrollee refuses or fails to participate in assessment activities, the department shall document the following conditions to establish good cause:

(a) Physical, mental, or emotional inability to perform the required activity;

(b) Court-ordered appearance or temporary incarceration;

(c) Family or individual emergency or crisis;

(d) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(e) Inclement weather which prevents the individual and others similarly situated from traveling to or participating in the prescribed activity;

(f) Breakdown in child care arrangements, or child care not available to the single-parent FIP household;

(g) The existence of other circumstances that make completion of assessment activities an unreasonable expectation.

NEW SECTION

WAC 388-77-270 ELIGIBILITY CONDITIONS APPLICABLE TO FIP—ASSIGNMENT OF RIGHTS TO SUPPORT. (1) The department shall require the applicant/recipient to assign to the office of support enforcement any and all right, title, and interest in any support obligation the applicant/recipient may have in his or her own behalf or on the behalf of any family member for whom application is being made. Such assignment shall:

(a) Include rights in support payments accrued prior to the time assignment is made; and

(b) Require that the applicant/recipient remit to the office of support enforcement any payments received directly from the person legally responsible to pay support. Payment of FIP assistance to the applicant shall constitute an agreement to the assignment of rights to support by the applicant, as provided under RCW 74.20.330.

(2) The department shall not meet the needs of FIP cash assistance for the caretaker relative who fails or refuses to comply with the requirement in subsection (1) of this section.

(a) The caretaker relative shall be ineligible to receive assistance and the department shall provide any assistance for which the child may be eligible by protective payment.

(b) The department shall compute the child's requirements without regard to the requirements of the caretaker relative except for the cash out food assistance portion of the grant.

(3) If the department, after making reasonable efforts, is unable to locate an appropriate protective payee, the department shall pay the sanctioned individual.

NEW SECTION

WAC 388-77-275 ELIGIBILITY CONDITIONS APPLICABLE TO FIP—COOPERATION IN OBTAINING SUPPORT FROM AN ABSENT PARENT. The department shall require an applicant/recipient of FIP to cooperate as specified in WAC 388-14-200 except as specified in WAC 388-77-270.

NEW SECTION

WAC 388-77-280 GOOD CAUSE FOR FAILURE TO COOPERATE WITH SUPPORT ENFORCEMENT. (1) The department shall:

(a) Waive the requirement in WAC 388-77-270 for cooperation of the applicant/recipient, if the department determines such cooperation would not be in the best interest of the child for whom assignment has been made.

(b) Inform the applicant/recipient of:

(i) The benefits the child may receive from establishing paternity; and

(ii) Their right to claim good cause for refusing to cooperate as specified in WAC 388-14-200(2) and 388-77-270.

(2) The applicant/recipient who claims to have good cause for refusing to cooperate shall provide sufficient information to permit an investigation to determine if good cause exists.

(3) The department shall determine good cause exists when:

(a) The evidence supplied by the applicant/recipient establishes cooperation would be against the best interest of the child; or

(b) Investigation of the circumstances of the case confirms the applicant/recipient's claim that cooperation would be against the best interest of the child.

(4) The department shall determine that good cause does or does not exist:

(a) As quickly as possible, but within 30 days from claim, unless exceptional circumstances occur and a longer period of time is required; and

(b) Notify the applicant/recipient, in writing, of the findings and basis for determination.

(5) The department shall determine that cooperation in establishing paternity and/or securing support is against the best interest of the child if any of the following conditions exist:

(a) The applicant/recipient's cooperation is anticipated to result in physical harm or emotional harm to:

(i) The child for whom support is to be sought; or

(ii) The caretaker relative; and

(b) At least one of the following circumstances exists:

(i) The child for whom support is sought was conceived as a result of incest or forcible rape; or

(ii) Legal proceedings for the adoption of the child are pending before a superior court; or

(iii) The applicant/recipient is currently being assisted by a public or licensed child-placing agency to resolve the issue of whether to keep the child or relinquish it for adoption, and discussions have not gone on for more than three months.

(6) Acceptable evidence upon which the local office shall base a determination of good cause, without further investigation, is limited to the following documents:

(a) Birth certificates, medical or law enforcement records that indicate the child was conceived as the result of incest or forcible rape;

(b) Court documents or other records that indicate that legal proceedings for adoption are pending before a superior court;

(c) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records that indicate the putative father or absent parent might inflict physical or emotional harm on the child or parent or caretaker relative; and

(d) Medical records from a mental health professional that indicate cooperation by the parent or caretaker relative would not be in the best interest of the child, based upon the emotional health history and present emotional health status the parent or caretaker relative of the child;

(7) the department shall, upon request, assist the applicant/recipient in obtaining the required evidence.

(8) The department shall not contact the absent parent or alleged father from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim. Prior to making such necessary contact, the department shall notify the applicant/recipient and give them the opportunity to:

(a) Present additional evidence or information so that contact with the absent parent or putative father becomes unnecessary;

(b) Withdraw the application for assistance; or

(c) Request a fair hearing.

(9) The department shall:

(a) Afford the office of support enforcement the opportunity to review and comment on all findings and basis for proposed good cause determinations;

(b) Consider any recommendation from the office of support enforcement; and

(c) Provide the office of support enforcement the opportunity to participate in any hearing that results from an applicant/recipient's appeal of any determination based on a good cause claim.

(10) The department shall not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the:

(a) Applicant/recipient has complied with the requirements to furnish information; and

(b) Applicant/recipient is otherwise eligible.

(11) If the local office determines there is good cause, the department shall not attempt to establish paternity or secure support.

(12) Department staff shall periodically review all cases in which a finding of good cause for refusal to cooperate has been made. If good cause no longer exists, the department shall rescind its decision and require cooperation by the applicant/recipient.

(13) If the department determines good cause does not exist, the department shall:

(a) Notify the applicant/recipient; and

(b) Afford the applicant/recipient the opportunity to:

(i) Cooperate; or

(ii) Withdraw the application for assistance; or

(iii) Have the case closed; or

(iv) Request a fair hearing.

(14) A caretaker relative who continues to refuse to cooperate loses eligibility for FIP.

(15) The department shall maintain records concerning its activities under this section.

(16) The local office shall promptly report to the office of support enforcement:

(a) All cases in which the applicant claim good cause has been claimed and a determination is pending;

(b) All cases in which the department has determined that there is good cause for refusal to cooperate;

(c) All cases in which the department has determined that there is not good cause for refusal to cooperate;

(d) All cases in which the applicant has requested a fair hearing; and

(e) Results of subsequent eligibility reviews in cases previously determined to have good cause.

NEW SECTION

WAC 388-77-285 ASSISTANCE TO MINOR CHILD. (1) The department shall determine eligibility according to WAC 388-77-200 through 388-77-280 if a minor applies for assistance for himself or herself.

(2) Parental consent is not required if an unmarried pregnant minor is requesting an abortion. The following applies:

(a) The decision to proceed with an abortion rests solely with the minor; and

(b) Involvement and/or consultation with the parent in reaching this decision shall be a matter of individual case judgment.

(3) The department shall not establish the financial eligibility of a minor without determining the parent's ability and willingness to give financial support. See WAC 388-83-130 for responsibility for medical care.

(4) Parental contact is not required when the minor applicant:

(a) Is married; or

(b) Is in the military service; or

(c) Has been declared emancipated by a court of competent jurisdiction prior to the application for assistance; and

(d) Is applying for medical assistance related to pregnancy.

(5) The department shall inform the minor applicant there will be communication with the parent or parents during the period of eligibility determination.

(6) The department shall establish the assistance unit of the minor parent according to WAC 388-77-210 if a minor parent and the minor parent's child reside with the minor's parent.

(7) The department shall consider the income of such parent available to meet the needs of the minor parent as specified in WAC 388-77-210 if the minor parent's parent is not included in the assistance unit of the minor parent.

(8) The department shall treat the legal guardian's income as available to meet the needs of the minor parent if a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent.

NEW SECTION

WAC 388-77-310 RESOURCES—MAXIMUM. To be eligible for FIP, assistance units shall not have nonexempt resources that exceed two thousand dollars.

NEW SECTION

WAC 388-77-320 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

(a) Household furnishings;

(b) Personal clothing;

(c) The home occupied by the FIP assistance unit and/or dependents;

(d) The home when:

(i) The applicant/recipient is absent for temporary visits and has not expressed intent to abandon the home as a residence; or

(ii) The applicant/recipient is absent from the home for medical reasons and when a physician indicates the individual will be able to return home during the remainder of the individual's lifetime;

(e) Real property with net equity value in excess of the resource maximum, provided the applicant/recipient is making a good-faith effort to sell the property at fair market value;

(f) Real property used in self-employment and treated according to WAC 388-77-355;

(g) Term or burial insurance;

(h) Life insurance;

(i) One cemetery plot for each member of the assistance unit;

(j) One used and useful vehicle with a fair market value of four thousand five hundred dollars or less;

(k) Other vehicle(s) if used:

(i) To produce 50 percent of the family's income;

(ii) To transport a disabled person; or

(iii) As the family home.

(l) Any per capita judgment funds paid under P.L. 92-254 to members of the Blackfoot Tribe of the Blackfoot Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana;

(m) Any Indian claim settlement funds distributed per capita or held in trust as authorized in section 7 of P.L. 93-134 or section 6 of P.L. 94-114;

(n) Any payments received by Alaska natives under the Alaska Native Claims Settlement Act, to the extent such payments are exempt from taxation under section 21(a) of that act;

(o) HUD community development block grant funds obtained and used under conditions precluding use for current living costs; and

(p) Retroactive AFDC or FIP benefits resulting from a court order modifying a department policy.

(2) The department shall use the wholesale value (average loan value) listed in the National Automobile Dealers Association's (NADA) official used car guide to determine fair market value of vehicles.

NEW SECTION

WAC 388-77-330 RESOURCES—NONEXEMPT. The department shall make a rebuttable presumption that the following are non-exempt resources:

(1) The home when the household expresses intent to abandon the home as a residence;

(2) The home when the applicant/recipient is absent from the home over 90 days, and:

(a) There is cause to believe the applicant/recipient will be unable to return home; and

(b) The home is not occupied by the applicant/recipient's dependents.

(3) The home when the applicant is absent as a result of natural disaster and the local office administrator determines it could be made accessible and habitable with reasonable expense and effort to the applicant/recipient;

(4) Cash;

(5) Saving and checking accounts;

(6) Marketable securities;

(7) Cash discount of real estate or chattel mortgage;

(8) Sales contracts;

(9) Excess value of vehicles;

(10) Value of nonexempt property;

(11) Any other resources not specifically exempted; and

(12) Lump sum payment.

NEW SECTION

WAC 388-77-335 EFFECT OF RESOURCES ON FINANCIAL NEED—SUMMARY OF BASIC POLICIES. (1) The department shall consider property to be a resource only when the applicant has title and control and the property is actually at hand for current use and/or disposition.

(2) The department shall evaluate the status and resource potentials of all real or personal property held by or subject to the disposition or control of an applicant and the applicant's spouse and members of the assistance unit.

(3) When the value or ownership of any resource is in question, the department shall allow the applicant a reasonable time, up to 45 days from the date of application, to clarify the questionable value, ownership, or availability of the resource. The applicant is not eligible for continuing assistance during this period.

(4) The department shall assist applicants who have difficulty clarifying their eligibility.

(5) An applicant shall make reasonable efforts to realize the potential of any nonexempt resource that will reduce need.

(6) Current eligibility is not affected when an applicant has taken, without success, reasonably required action to make a resource potential available.

(7) The department shall review eligible cases with excess resources on a regular basis.

NEW SECTION

WAC 388-77-340 RESOURCES—JOINTLY OWNED. (1) When an applicant shares title to property with some person other than the spouse and other than the contract vendor, mortgage or lien holder, the department shall determine eligibility upon the basis of the applicant's equity and the availability of their fractional interest in the value of the property.

(2) The department shall:

(a) Consider all cash savings held by the applicant or held jointly with any other person as available to the applicant; and

(b) Consider any funds on deposit, in hand, or in any place from which cash may be drawn by the applicant as a cash fund.

(3) The department shall not consider a joint account or funds held for others when:

(a) The applicant/recipient can show that all or a portion of the funds are exclusively derived from the other holder's funds; and

(b) The applicant/recipient holds and/or utilizes the account solely for the benefit of that holder.

NEW SECTION

WAC 388-77-350 RESOURCES—TIME-LOSS COMPENSATION—LIEN. (1) The department is authorized to file a lien upon the time-loss compensation payable to a recipient of FIP.

(2) Provisions of this section do not apply to persons when the person's eligibility for time-loss benefits is based upon an injury or illness that occurred prior to July 1, 1972.

(3) By accepting public assistance, a recipient is deemed to have subrogated to the department the right to recover time-loss compensation.

(4) When FIP cash assistance and time loss is paid to an injured worker, the department shall compute the department's claim for subrogation up to 100 percent of the lesser amount of either:

(a) The public assistance portion of FIP cash assistance; or

(b) The time-loss compensation paid.

(5) The department shall exempt the food stamp cash out portion of the FIP cash assistance from any claim against time-loss compensation.

(6) When the FIP assistance unit is composed of several adults not married to each other, the department shall:

(a) Make the claims for subrogation as if the injured worker and the worker's dependents were on a separate assistance grant; or

(b) Count a common child as one of the injured worker's dependents.

(7) If an injured worker or one of the worker's dependents receives other income that is budgeted against the FIP cash assistance grant, the department shall make claim for subrogation as if that other income were budgeted against continuing assistance for the injured worker and the worker's dependents in the household.

(8) The department shall make no further claim under this lien against the time-loss compensation when the period of duplicated benefits from FIP cash assistance and time-loss compensation terminates, or if continuing assistance is paid to supplement time-loss compensation to bring the injured worker's income up to the FIP benchmark standard.

(9) The department shall compute the payments for time-loss and FIP cash assistance paid for less than a full month on the actual number of days paid in computing the amounts of claims for subrogation.

(10) The department shall mail a copy of the statement of lien and notice to withhold and deliver time-loss compensation to a recipient no later than the next business day after such statement has been sent to the department of labor and industries or the self-insurer.

(11) The department shall advise an applicant/recipient of the provisions of this section when it is known he or she may be eligible for time-loss compensation from labor and industries or the self-insurer.

(12) Any person feeling aggrieved by the action of the department in impounding time-loss compensation has the right to a fair hearing as provided in chapter 388-08 WAC.

NEW SECTION

WAC 388-77-355 RESOURCES—PROPERTY USED IN SELF-EMPLOYMENT. (1) The department may declare real, personal property, and inventory, when used in a self-employment enterprise, to be an exempt resource when the property:

(a) Produces income reducing the applicant/recipient's need for FIP assistance; or

(b) Aids in rehabilitating the applicant or the applicant's dependents by providing self-employment experience that can reasonably be expected to lead to full or partial self-support.

(2) If stock, raw materials, or inventory of a business is exempted, the department shall examine any increase in value to determine whether the increase is necessary to the health of the enterprise. Recipients shall not use such increase as a means of diverting funds that might reasonably constitute income to the recipient.

(3) In the absence of a self-sufficiency plan, the department shall consider the business assets of a self-employment enterprise to be non-exempt resources available to the owner in the amount of the sale value minus encumbrances, unless the resources are generally exempt under the provisions of WAC 388-77-320.

(4) The department considers accounts receivable to be exempt resources under a self-sufficiency plan as long as good-faith effort is being made to collect. If efforts to collect are unsuccessful, then the department shall require the accounts be turned over to a collection agency. Failure to do so will cause the department to consider the accounts to be a nonexempt resource. When payment is received, the department shall treat it as income.

NEW SECTION

WAC 388-77-360 ACCUMULATION AND DEPLETION OF ALLOWABLE CASH RESOURCE RESERVES. (1) Recipients may spend their cash reserves and rebuild them with:

- (a) Succeeding FIP assistance grants;
 - (b) Funds from other exempt sources; or
 - (c) Other income that has been considered in computing financial need.
- (2) Cash on hand may exceed the specified limits for a maximum of 30 days if it has already been considered in computing financial need.
- (3) Cash reserves may be accumulated from nonrecurrent cash lump-sum sources.

(4) If a lump sum, when added to existing reserves, causes the resources to exceed allowable limits, the department shall treat the excess as an excess resource.

(5) Earnings accrued over a period of time and received in one payment may not be used to build resource reserves.

(6) If a lump sum is placed in trust for a recipient and is not under the recipient's control, the following rules apply:

- (a) Funds kept in trust do not affect FIP assistance need.
- (b) The trustee may release to the recipient an amount up to the allowable resource limit for the assistance unit less any amount of existing cash and marketable securities as of the date the lump sum was received. Such disbursement, if made within 30 days of the date the lump sum was received, is used to accumulate allowable reserves and does not affect FIP assistance need. This may be done once for each lump sum placed in trust.

NEW SECTION

WAC 388-77-365 ENTITLEMENTS. (1) The department shall discuss any potential entitlements with the applicant/recipient and assist him or her in obtaining such benefits.

(2) As a condition of FIP eligibility, persons who are eligible to receive reduced social security or railroad retirement (RSI) benefits at sixty-two years of age and women who are eligible to do so at sixty years of age shall apply for such benefits and have the benefits reduce the need for FIP cash assistance.

NEW SECTION

WAC 388-77-370 NONEXEMPT RESOURCES—EFFECT ON FINANCIAL NEED. The possession of a nonexempt resource by an applicant affects financial need to the extent the value of the resource decreases the need for FIP assistance.

(1) For all programs, the value assigned to such resources shall be the fair market value minus legal encumbrances.

(2) The department shall deduct the excess value of such resource from the cost of applicant's requirements for one month at time of application and at each succeeding eligibility review. If the value of non-exempt resources exceeds one month's appropriate benchmark level plus additional requirements and incentive payments, the applicant is ineligible.

NEW SECTION

WAC 388-77-375 RESOURCES—REPLACEMENT OF EXEMPT PROPERTY. (1) A recipient may, within 60 days of receipt:

- (a) Reinvest in other exempt property funds acquired from a settlement covering damaged, destroyed, or stolen exempt property; and/or
- (b) Pay medical bills for which the settlement was intended.

(2) A FIP recipient may retain cash from the settlement up to the amount of the difference between current resource values and the resource maximum.

(3) At each subsequent eligibility review, the department shall consider any remaining portion of the settlement, after applying subsections (1) and (2) of this section.

NEW SECTION

WAC 388-77-500 INCOME—DETERMINATION OF NEED.

(1) An applicant/recipient is not eligible for FIP cash assistance if nonexempt net monthly income less disregards exceeds the totals of:

- (a) Monthly benchmark standard;
- (b) Incentives standards; and
- (c) The additional requirement standards.

(2) The department shall determine the exempt or nonexempt status of all income.

(3) The department shall deduct nonexempt gross income from the benchmark, authorized additional requirements and incentive standards to determine FIP cash assistance.

NEW SECTION

WAC 388-77-505 INCOME—EARNED. The department shall consider the following as earned income:

- (1) Wages, salaries, commissions, bonuses, or profits from activities the individual is engaged in as an employee;
- (2) Countable income from self-employment;
- (3) Earnings over a period of time for which settlement is made at one time;
- (4) Tips and reimbursement from employers for on-the-job expenses to the extent the reimbursement exceeds expenses;
- (5) Benefits received from performing active duty as a picketer if the individual is on strike;
- (6) Earnings under Title I of the Elementary and Secondary Education Act;
- (7) Wages paid under the Job Training Partnership Act (JTPA);
- (8) Earnings from FIP on-the-job training;
- (9) Earnings received under the Economic Opportunities Act; and
- (10) Income from operating a rooming, boarding, or boarding and rooming home.

NEW SECTION

WAC 388-77-510 INCOME—UNEARNED INCOME. The department shall consider the following unearned income:

- (1) Income from real or personal property;
- (2) Support from parent, stepparent, or other nonrelated adult;
- (3) Dividends from stocks and bonds;
- (4) Interest in an estate;
- (5) Cash benefits and entitlements from private and public agencies;
- (6) Payment that exceeds the department's approved rate for operating a foster home for children or a family home for adults;
- (7) Lottery winnings and prizes; and
- (8) Interest from:
 - (a) Savings,
 - (b) Certificates of deposit, and
 - (c) Money market funds.

NEW SECTION

WAC 388-77-515 INCOME—EXEMPT. The department shall consider the following as exempt income:

- (1) Gifts;
- (2) Loans;
- (3) Gifts in-kind;
- (4) Repayment of money previously loaned by the recipient to another party;
- (5) Earned income of either:
 - (a) A child who is at least a half-time student; or
 - (b) An eligible dependent who is 18 years of age through 21 years of age and who is a full-time student.
- (6) Earned income credit (EIC) payment;
- (7) Food stamp benefits;
- (8) Funds that are not considered legally obligated child support received by an applicant/recipient for another person's or family's share of household costs;
- (9) FIP transportation and related training incentive payments;
- (10) Grant, loan, or federal work study to any undergraduate student for educational purposes made or insured under any programs administered by U.S. Department of Education;
- (11) Public or private student financial aid, to the extent the student has educational expenses other than room or board, as determined by the financial aid administrator;
- (12) Funds paid directly to an institution on behalf of an enrollee for the cost of tuition and books;

(13) Any per capita judgment funds paid under P.L. 92-254 to members of the Blackfoot Tribe of the Blackfoot Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana;

(14) Any Indian claim settlement funds distributed per capita or held in trust as authorized in section 7 of P.L. 93-134 or section 6 of P.L. 94-114;

(15) All income of an individual receiving benefits under supplemental security income for the period such benefits are received;

(16) Payments received by Alaska natives under the Alaska Native Claims Settlement Act, to the extent such payments are exempt from taxation under section 21(a) of that act;

(17) Retroactive FIP or AFDC cash assistance resulting from a court order modifying a department policy;

(18) HUD community development block grant funds obtained and used under conditions precluding use for current living costs;

(19) The first fifty dollars per month of the current monthly support obligation of any child support collected on the family's behalf or received by the family;

(20) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(21) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(22) Any benefits received under:

(a) The women, infants, and children program (WIC) of the Child Nutrition Act of 1966, as amended; and

(b) The special food service program from children under the National School Lunch Act, as amended;

(23) Payment made under the Community Services Administration's Emergency Energy Conservation Program of 1979; and

(24) Energy assistance payments.

NEW SECTION

WAC 388-77-520 INCOME—DEDUCTIONS. (1) In computing the amount of the FIP grant, the department shall deduct from social security benefits or veterans benefits the cost of securing a guardian when the Social Security Administration or the Veterans' Administration require the appointment of a legal guardian as a condition for receipt of those benefits.

(2) The department shall allow self-employment expenses as found in WAC 388-77-525.

NEW SECTION

WAC 388-77-525 INCOME—SELF-EMPLOYMENT. (1) A self-employed person shall maintain and make available to the department, records clearly documenting all claimed business expenses and income.

(2) Personal work expenses in the form of self-employment taxes (FICA), income taxes, and transportation to and from the place of business are not deductible from either the gross or net income.

(3) The department shall deduct the following self-employment expenses from gross self-employment income to arrive at countable earned income:

(a) Rental of business equipment or property;

(b) Utilities;

(c) Postage;

(d) Telephone;

(e) Office supplies;

(f) Advertising;

(g) Insurance;

(h) Legal, accounting, and other professional fees;

(i) The cost of goods sold, including:

(i) Wages and salaries paid to employees;

(ii) Raw materials;

(iii) Stock; and

(iv) Replacement or reasonable accumulation of inventory, provided inventory has been declared exempt on the basis of an agreed plan as stated in WAC 388-77-355.

(j) Interest on business indebtedness;

(k) Commissions paid to agents and independent contractors;

(l) Transportation essential to the business according to the actual documented work-related cost of operating the vehicle;

(i) The department shall limit the total operating cost for a vehicle to:

(A) Gas, oil, and fluids;

(B) Necessary services and repairs;

(C) Replacement of worn items such as tires;

(D) Registration and licensing fees; and

(E) Interest on automobile loans.

(ii) When the recipient chooses, the department shall allow eight cents per mile to cover the work-related costs of gas, oil, and fluids;

(iii) The department shall deduct the cost of tolls and parking related to the business as a business expense; and

(iv) If a vehicle is needed for both business and private purposes, the recipient shall document the mileage and expenses attributable to the business in a daily log. The department may verify the information in the log.

(m) Nonpersonal taxes on the business and business property, including:

(i) Employer's share of federal social security taxes on business employees; and

(ii) State and federal unemployment insurance contributions.

(n) Other expenditures reasonable and necessary to the efficient and profitable operation of the self-employment business.

(4) Expenses for the following items are not deductible business expenses in a self-employment business:

(a) Self-employed person's personal income taxes and self-employment taxes (FICA);

(b) Capital expenditures made to acquire or increase the value of fixed assets. Fixed assets are items normally in use for one year or longer, such as land, buildings, vehicles, boats, machinery, tools, office equipment, furniture, and fixtures;

(c) Payments on the principal of loans to the business;

(d) Amounts claimed as depreciation;

(e) Any amount claimed as a net loss sustained in any prior period; and

(f) Entertainment expenses.

NEW SECTION

WAC 388-77-530 NET CASH INCOME—FOR SUPPORT OF LEGAL DEPENDENTS. The department shall allocate the income of a parent or stepparent as follows:

(1) If parents or stepparents are part of the assistance unit:

(a) Exempt court or administratively ordered support for any legal dependent not residing in the parent or stepparent's home up to the one-person benchmark standard in chapter 388-29 WAC for each legal dependent;

(b) Allocate income to meet the requirements of those needy members of the family who are not eligible for FIP and for whom the parent or stepparent is legally responsible;

(c) Compute the requirements according to appropriate benchmark standard; and

(d) Allocate income to meet the needs of members of the FIP assistance unit for whom the parents are legally responsible.

(2) If the parents are not in the assistance unit, but are in the household:

(a) Allocate the gross income of ineligible parents whose income is deemed to the assistance unit according to the rules in subsections (1)(a), (b), and (c) of this section; and

(b) Deem to the assistance unit the gross income of a parent or stepparent who is in sanction status or who is required to be in the assistance unit and has failed to cooperate.

NEW SECTION

WAC 388-77-545 ALIEN SPONSORSHIP—DEEMING OF INCOME AND RESOURCES—OVERPAYMENTS. The department shall determine eligibility for FIP in accordance with the Immigration and Nationality Act as amended.

NEW SECTION

WAC 388-77-550 GUARDIANSHIPS AND TRUSTS—INDIANS. (1) When the superintendent of an Indian agency determines Indians under the superintendent's jurisdiction need help in managing their affairs, the superintendent has the authority, under Title 25, Code of Federal Regulations, Part 104, to control disbursement of the Indian's trust funds. When such authority has been exercised, and the Indian is an applicant for or a recipient of FIP cash assistance, the following rules apply:

(a) The superintendent shall provide to the department a written statement that the superintendent is maintaining control of the Indian's trust funds according to the provisions of 25 C.F.R. 104;

(b) The Indian or their representative shall discuss with the superintendent the availability of trust funds to meet public assistance need, and the superintendent shall indicate to the department whether or not funds will be released for this purpose;

(c) The department shall consider any trust funds in excess of exempt resource levels, disbursed directly to the Indian and under the Indian's control, as available to meet need.

(d) The department shall not consider funds held in trust by the superintendent and not disbursed as available to meet need;

(e) The department shall consider funds disbursed by the superintendent to third parties, in payment for goods or services that are not under the Indian's control, as available to meet need, depending on the nature of the disbursement:

(i) The department shall consider disbursements to third parties for items duplicating basic requirements, as defined in WAC 388-22-030 (57)(b), as available to meet need; and

(ii) The department shall consider disbursements to third parties for items not duplicating basic requirements as not available to meet need. However, the department shall evaluate such items with regard to the resource limitations of WAC 388-77-310 through 388-77-335.

(f) The department shall review disbursements from the individual Indian's trust account annually.

(2) Real property held in trust for an individual Indian is not an available resource.

(3) Property which has lost its trust status is an available resource.

NEW SECTION

WAC 388-77-555 EARNED INCOME REPORTING. (1) The department shall send employed recipients a form to report their gross earnings and hours worked. This section does not apply to an employed child who is at least a half-time student or employed eligible dependents who are 18 years of age through 21 years of age and who are full-time students.

(2) Approved applicants who are employed shall begin to report their earnings and hours worked the month following the month of opening.

(3) Newly employed recipients shall complete an earned income report the month following the month the department becomes aware of the earnings.

(4) The department shall:

(a) Issue advance and adequate notice of suspension to a recipient who fails to return a completed earned income report by the 10th of the month;

(b) Suspend FIP cash assistance for 20 days if a completed report is not received during the advance notice period;

(c) Reinstate, suspend, or terminate FIP assistance as appropriate when a report is received during the period of advance notice or suspension and give advance notice of the action taken; and

(d) Issue advance notice of termination when no report is received during the period of advance notice and suspension.

NEW SECTION

WAC 388-77-560 RETROSPECTIVE BUDGETING, PROSPECTIVE BUDGETING, AND PROSPECTIVE ELIGIBILITY.

(1) The department shall determine eligibility and the amount of FIP cash assistance based on the best estimate of income and circumstances that will exist in the month for which the assistance payment is made.

(2) For the first two months of initial eligibility, the department shall budget income prospectively, including income of an individual who is added to an existing assistance unit.

(a) The department shall not establish an overpayment if the income is underestimated.

(b) The department shall issue a supplemental payment if the income is overestimated.

(3) The department shall use retrospective budgeting for the first two months of initial eligibility when:

(a) There has been less than one month's break in assistance;

(b) Assistance was suspended due to an extra paycheck for the month prior to the month of application;

(c) A case is reopened as terminated in error;

(d) An individual whose income was deemed to an assistance unit is added to that assistance unit; or

(e) Assistance was suspended for the payment month due to ineligibility in the report month.

(4) After the first two months of initial eligibility, the department shall budget all income that existed in the report month.

(5) All income received during the calendar month of application approval shall be considered for retrospective budgeting purposes.

(6) Noncontinuous income budgeted prospectively during the first two months of eligibility shall not be budgeted for the first and second payment month for which retrospective budgeting is used.

NEW SECTION

WAC 388-77-600 STANDARDS OF ASSISTANCE. (1) The department shall ensure no applicant or recipient of the family independence program receives less financial assistance than he or she would otherwise have been entitled to receive as a sum of the aid to families with dependent children and food stamp programs under the rules in effect January 1, 1988, and as adjusted to reflect all increases in:

(a) The federal food stamp allotment and deductions; and

(b) The Washington state payment standard for aid to families with dependent children.

(2) The benchmark standard and benchmark plus incentive standards shall be based upon the number of recipients in the assistance unit.

(3) When a person is in a medical institution, the department shall pay food, shelter, and household maintenance as a medical care cost, not as part of a grant.

(4) When two or more assistance units share a common dwelling, the benchmark standard for each is based upon the number of members in that assistance unit.

(5) FIP assistance units shall be categorically eligible for the food stamp program. Food stamp benefits shall be paid in the form of cash and included in the benchmark standard.

NEW SECTION

WAC 388-77-605 STANDARDS OF ASSISTANCE—BENCHMARK STANDARD. (1) The benchmark standard for FIP assistance units shall be:

Recipients in Household	Assistance Payment Standard	80% of Thrifty Food Plan	Benchmark Standard
1	\$ 314	+ \$ 70	\$ 384
2	397	+ 127	524
3	492	+ 182	674
4	578	+ 232	810
5	666	+ 275	941
6	756	+ 330	1,086
7	873	+ 366	1,239
8 or more	966	+ 418	1,384
Each additional person add		52	52

(2) The nine hundred sixty-six dollar maximum assistance payment standard applies to households of eight or more.

NEW SECTION

WAC 388-77-610 STANDARDS OF ASSISTANCE—INCENTIVE STANDARD. (1) The department shall provide enrollees participating in work, education, or training programs with incentive benefits payments as follows:

(a) Five percent of the benchmark standard for enrollees participating in approved training or education programs;

(b) Five percent of the benchmark standard for teenage parents if they stay in:

(i) High school; or

(ii) Vocational school or a departmental approved education or training plan; and

(iii) Progress toward graduation and successfully participate in approved parenting education.

(c) Fifteen percent of the benchmark standard for enrollees working half time;

(d) Thirty-five percent of the benchmark standard for enrollees working full time.

(2) Self-employed enrollees shall be entitled to 15 percent or 35 percent of the benchmark standard based on hours worked as computed by dividing the enrollee's net income by the average beginning hourly wage achieved by women enrollees during the previous year.

NEW SECTION

WAC 388-77-615 STANDARDS OF ASSISTANCE—GENERAL STANDARDS. Standards of assistance contained in WAC 388-29-112 through WAC 388-29-280 which are applicable to AFDC shall also apply to FIP recipients, who are otherwise eligible.

NEW SECTION

WAC 388-77-640 ADDITIONAL REQUIREMENTS FOR EMERGENCY SITUATIONS—FIP. (1) The department shall allow additional requirements in the following emergent situations in which, for good cause, a recipient does not have adequate funds to:

(a) Secure housing and necessary clothing in the event of a natural disaster such as flood or fire, and relief is not available under WAC 388-53-010 et seq.;

(b) Prevent imminent eviction, where a formal notice of eviction or notice to pay or vacate has been received. The department shall provide only the amount needed to prevent the eviction or to secure new housing;

(c) Correct a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities when the recipient is legally responsible for the repairs and winterization funds are not available. The department shall limit the provision of funds to actual costs of repairs or replacement when there is no other alternative;

(d) Obtain new housing when the premises contains a verifiable material defect jeopardizing the occupant's health and safety and the landlord or owner fails or refuses to correct the defect within the time allowed by law;

(e) Prevent an impending utility shutoff when a recipient has received a notice of impending shutoff or it is otherwise verified by the department that the recipient is without necessary fuel for heating or cooking. The department shall provide only the amount needed to meet the emergent need;

(f) Obtain new housing for needs caused by an abusive spouse. The department shall limit payments to:

(i) Established fees paid to shelters especially for abused spouses, or
(ii) The amount necessary to obtain new housing.
(g) Obtain food, when no other resource is available.

(2) Good cause is established when the department determines funds ordinarily available to meet need are no longer available because of:

(a) Stolen proceeds from a cashed warrant; or
(b) Payment for necessities for:
(i) Medical bills;
(ii) Child care in an emergency;
(iii) Avoiding abuse;
(iv) Dental care for alleviation of pain or to obtain employment.

(3) Payments under this section shall not exceed one month's benchmark standard, plus incentives and additional requirements.

NEW SECTION

WAC 388-77-700 PAYMENT OF FIP CASH ASSISTANCE. The department shall:

(1) Authorize FIP cash assistance for each eligible assistance unit.
(2) Base FIP cash assistance upon the department's standards of assistance and on the recipient's circumstances.

(3) Authorize FIP cash assistance of less than the amount for which an applicant/recipient qualifies if requested, in writing, by the eligible person.

(4) Round down FIP cash assistance to the next whole dollar amount unless it is already an even dollar amount.

(5) Not round down a payment for a household with a grant deduction for repayment of an overpayment.

NEW SECTION

WAC 388-77-710 EFFECTIVE DATES—AUTHORIZATION—APPLICANT—REINSTATED RECIPIENT. (1) The effective date of eligibility shall be the date of authorization, or the 30th day after application, if more than 30 days are required to determine eligibility. In applying this rule, the day application was made is not counted.

(2) The department shall continue FIP cash assistance in the amount authorized unless and until a change of circumstances requires:

(a) A change in the amount; or
(b) Suspension; or
(c) Extension; or
(d) Termination.

(3) The department shall determine eligibility for nonassistance food stamps, medical, and other cash or noncash assistance when FIP cash assistance is terminated;

(4) The department shall establish the effective date of eligibility for a person receiving continuing assistance from another program and applying for FIP as:

(a) The date of the first regular warrant roll for which the household is eligible; and

(b) The date the department terminates the grant under the old program.

(5) The effective date for an applicant applying for FIP, prior to the occurrence of an event that makes the person eligible, is the date the event occurs;

(6) The department shall reauthorize FIP cash assistance, effective the first of the month in which payment was discontinued, when assistance was terminated and the applicant/recipient was later determined eligible for the period of termination.

NEW SECTION

WAC 388-77-720 EFFECTIVE DATES—CHANGES IN ELIGIBILITY AND/OR CIRCUMSTANCES. The effective date of a change in circumstance causing:

(1) Ineligibility is the first of the second month following the month the change occurred;

(2) A reduction in FIP cash assistance is the first of the second month following the month in which the change occurred; and

(3) An increase in FIP cash assistance is the date the circumstance changed.

NEW SECTION

WAC 388-77-725 EFFECTIVE DATES—FAIR HEARING DECISIONS—OVERPAYMENTS. (1) The effective date of a fair hearing or court decision shall be:

(a) The date specified in the fair hearing record or court decision; or
(b) The date an incorrect action was taken; or
(c) An earlier date as provided by department rules when:

(i) The initial or final hearing decision is favorable to the appellant, or

(ii) The department decides in favor of the appellant prior to the hearing.

(2) The effective date for the monthly deduction of an overpayment shall be:

(a) The first regular warrant following the advance notice period; or
(b) The date specified in the fair hearing decision if the recipient requests a fair hearing during the required 10-day period.

(3) The effective date of a deduction shall be the first regular warrant for which the department is able to begin the deduction following the initial advance notice period if the claimant withdraws the request for a fair hearing in writing or the hearing is abandoned.

(4) The department shall certify discontinuance of a monthly deduction as soon as restitution is completed.

NEW SECTION

WAC 388-77-730 CORRECTIVE PAYMENTS—UNDERPAYMENT. (1) The department shall make a corrective payment when the department paid less than the correct amount of FIP cash assistance for which the recipient was eligible.

(2) The department shall not consider corrective payments as income or as a resource in the month paid nor in the following month. Corrective payments shall be treated as a nonexempt resource if available to meet need after the month following the month paid.

(3) Court ordered corrective payments are exempt under WAC 388-77-515.

NEW SECTION

WAC 388-77-735 SUSPENSION OF FIP CASH ASSISTANCE. (1) The department shall suspend FIP cash assistance:

(a) When the recipient does not return the earned income report; or

(b) For one month when the recipient's income exceeds one month's standard, but is less than the payment standard for two months.

(2) The department shall reinstate a suspended FIP cash assistance recipient when the conditions that caused the recipient to be suspended cease to exist.

(3) Enrollees who have contributed to income drops in order to receive additional program benefits shall be subject to fraud proceedings. Such assistance fraudulently received shall be subject to recoupment according to WAC 388-77-900 through 388-77-940.

NEW SECTION

WAC 388-77-737 EXTENSION OF FIP NONCASH ASSISTANCE. (1) The department shall extend FIP noncash benefits for a period of up to 12 months when a recipient has earned income that makes him or her ineligible for FIP cash assistance.

(2) When the earnings of a household receiving extended medical and child care benefits drop below the 135 percent level, the department shall:

(a) Reopen cash assistance if the enrollee has not willfully intended for the income to drop; and

(b) Refer enrollees whose drop in earned income appears to be willful intent to the office of special investigation for fraud investigation.

NEW SECTION

WAC 388-77-740 TERMINATION—FIP CASH ASSISTANCE AND SUSPENDED FIP CASH ASSISTANCE. (1) The department shall terminate FIP cash assistance when the recipient does not meet one or more of the conditions required for continued eligibility.

(2) The department shall terminate suspended FIP cash assistance when:

(a) The individual dies while the grant is suspended; or

(b) A period of temporary ineligibility has ended and the individual is ineligible for some other reason.

(3) The department shall determine eligibility for nonassistance food stamps, medical, and other cash and noncash assistance when FIP cash assistance is terminated.

NEW SECTION

WAC 388-77-745 ADVANCE AND ADEQUATE NOTICE.

(1) The department shall give a recipient advance and adequate notice, except as provided in WAC 388-77-760, of any proposed action to terminate, suspend, or reduce FIP cash assistance.

(2) The department shall give notice to affected recipients when changes in either state or federal law require automatic FIP cash assistance adjustments.

NEW SECTION

WAC 388-77-750 FIP CASH ASSISTANCE CONTINUATION PENDING FAIR HEARING. The department shall continue benefits pending a fair hearing as provided for in WAC 388-33-377 when recipients request a fair hearing under chapter 388-08 WAC.

NEW SECTION

WAC 388-77-755 NOTIFICATION OF SUSPENSION OR TERMINATION OR REDUCTION OF FIP CASH ASSISTANCE. The department shall continue FIP cash assistance unchanged until the end of the advance notice period when a proposed action cannot be effected on the date specified by rules on eligibility and grant changes. The department shall prorate the monthly FIP cash assistance for the number of days needed.

NEW SECTION

WAC 388-77-760 DISPENSING WITH ADVANCE NOTICE. The department is not required to provide advance notice of action to terminate, suspend, or reduce FIP cash assistance when:

(1) The recipient payee dies and no other relative is available to serve as payee.

(2) A recipient is admitted or committed to an institution and is therefore ineligible.

(3) The recipient's whereabouts are unknown and departmental mail has been returned indicating no known forwarding address.

(4) A recipient has been approved for assistance in another state.

(5) The only eligible child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by the child's legal guardian.

(6) Eligibility for assistance or an additional requirement is for a specific limited period of time and the recipient has been advised.

(7) The recipient expresses a wish not to receive further assistance. The department shall send adequate notice to confirm the verbal or written request for termination.

NEW SECTION

WAC 388-77-765 NOTIFICATION OF EXCEPTION TO POLICY REQUEST AND DECISION. (1) The department shall notify an applicant/recipient in writing within 10 days of a request for an exception to policy when:

(a) An exception to policy has been requested according to chapter 388-20 WAC; or

(b) The department decides not to initiate an exception to policy; or

(2) The department shall notify an applicant/recipient in writing within 10 days after a decision has been made to approve or deny an exception to policy.

(3) Exception decisions are not subject to the fair hearing procedures of chapter 388-08 WAC.

(4) Applicants/recipients shall have the right to present a written grievance as described in WAC 388-77-770.

NEW SECTION

WAC 388-77-770 GRIEVANCE PROCEDURE. (1) An applicant/recipient, who is aggrieved by a decision of the department, shall have the right to present a written grievance to the supervisor of the line worker.

(2) The supervisor shall make a decision on a grievance and notify the recipient in writing within 10 days of receipt of the grievance.

(3) The applicant/recipient shall have the right to present the grievance in writing to the local office administrator if the applicant/recipient is not satisfied with the decision of the supervisor.

(4) The local office administrator shall make a decision on a grievance and send the applicant/recipient a written notice of the decision within 10 days of receipt of the grievance. This notice terminates the grievance procedure.

(5) The exercise of the right to pursue a grievance shall not in any way preclude the exercise of any rights the applicant/recipient may have under fair hearing, chapter 388-08 WAC.

(6) The department may choose to respond to the grievance by informing the applicant/recipient that the department prefers that the matter be solved through the administrative or judicial review process if administrative or judicial review is pending on the same issue.

NEW SECTION

WAC 388-77-780 PAYEE AND WARRANTS. (1) The department shall authorize FIP payments according to WAC 388-33-400 and WAC 388-33-420.

(2) Warrants authorized under FIP shall be treated according to WAC 388-33-525, 388-33-535, 388-33-545, 388-33-550, 388-33-576, and 388-33-585.

NEW SECTION

WAC 388-77-810 ONE-TIME FIP CASH ASSISTANCE—SUPPLEMENTAL PAYMENT. (1) The department shall authorize one-time FIP cash assistance when the recipient is eligible to receive:

(a) A one-time single payment; or

(b) A supplemental payment.

(2) The one-time FIP cash assistance payment shall be for the period beginning with the date of eligibility to the date the FIP cash assistance is adjusted.

(3) The department shall not issue a retroactive one-time FIP cash assistance payment for a period of more than 60 days prior to the date of authorization.

(4) The one-time FIP cash assistance payment shall be effective the date circumstances change.

(5) The one-time FIP cash assistance payment does not change the amount of the continuing grant currently authorized.

(6) The department shall send written notice to the recipient advising the recipient of the:

(a) Approval of one-time FIP cash assistance payment; and

(b) Amount of the payment; and

- (c) Requirement or requirements for which it is intended.

NEW SECTION

WAC 388-77-815 RESPONSIBILITY FOR ELIGIBILITY MAINTENANCE—RECIPIENT. (1) A recipient shall report promptly and accurately, in writing, all changes in circumstances that affect continuing eligibility for assistance.

(2) A recipient's failure to report such changes in circumstances to the department within 20 days shall be considered prima facie evidence of fraudulent intent.

(3) A recipient shall take any action that is reasonable for him or her to develop resources that will reduce or eliminate the need for FIP cash assistance.

NEW SECTION

WAC 388-77-820 RESPONSIBILITY FOR ELIGIBILITY MAINTENANCE—DEPARTMENT. The department shall:

(1) Inform a recipient of factors that may affect his or her continuing eligibility for FIP cash assistance; and

(2) Act promptly and correctly on all known changes that affect the eligibility of a recipient; and

(3) Notify a recipient when eligibility conditions are changed by law or rule; and

(4) Conduct a full periodic review if a sufficient number of factors have changed to make a full review advisable.

NEW SECTION

WAC 388-77-825 RECIPIENT'S WHEREABOUTS UNKNOWN OR FAILURE TO PROVIDE ELIGIBILITY DATA. (1) The recipient shall be ineligible and the department shall terminate FIP cash assistance when:

(a) The recipient fails to furnish a current address within ten days following the mailing by the department of a letter to the last known address; or

(b) The recipient fails to furnish information and/or requested verification about continued eligibility; or

(c) The recipient fails to take a specific action within 10 days following the mailing of a letter to the last known address specifically citing the required information or action. The letter shall include a statement that failure to provide the information may result in termination or reduction of FIP cash assistance.

(2) The department shall give advance and adequate notice when:

(a) A recipient provides information within the 10-day period that results in reduction, suspension, or termination of FIP cash assistance; and

(b) The recipient:

(i) Fails to supply additional requested information or verification within 10 days; or

(ii) Supplies insufficient information.

(3) The department shall accept the information or verification up to the effective date of the adverse action. If the department has already sent advance and adequate notice of termination, the department shall:

(a) Send the recipient a written notice that the department received the information needed to establish continuing eligibility; or

(b) Send an additional adequate notice if:

(i) The recipient's response is inadequate; or

(ii) The response results in termination, reduction, or suspension of FIP cash assistance.

NEW SECTION

WAC 388-77-830 REDIRECTION OF WARRANT. (1) The department shall redirect a warrant to the local office when:

(a) The recipient's address is unknown;

(b) The recipient reported a change of address prior to scheduled receipt of the warrant; or

(c) A change in payee is required; or

(d) A reduction, suspension, or termination of FIP cash assistance is required; or

(e) A recipient has entered an institution; or

(f) An eligibility review has not been completed.

(2) The department shall notify the recipient before action is taken to redirect a warrant for any reason other than death, unless the recipient has already been notified that a warrant change will be made.

(3) The department shall include in the notification:

(a) The reason for and legal basis for the redirect action; and

(b) The action the department will take.

(4) The department shall:

(a) Determine the recipient's eligibility or ineligibility for the redirected warrant no later than 30 days after the date of its issuance;

(b) Notify the recipient of the reason for the cancellation if the recipient is ineligible;

(c) Release the warrant if the recipient is eligible; or

(d) Authorize a warrant in the correct amount.

NEW SECTION

WAC 388-77-835 PERIODIC REVIEW AND REDETERMINATION OF ELIGIBILITY. The department shall:

(1) Conduct an annual face-to-face interview to redetermine FIP continued eligibility;

(2) Designate the forms to use during the periodic eligibility review;

(3) Require one set of completed forms from each assistance unit;

(4) Review each eligibility factor that is subject to change; and

(5) Assure the recipient meets all the eligibility requirements of the department.

NEW SECTION

WAC 388-77-870 FIP FOOD STAMP ELIGIBILITY. (1) FIP assistance units shall be categorically eligible for food stamp program benefits.

(2) A person residing in the same home as a FIP household, but ineligible for FIP, may apply for nonassistance food stamps.

NEW SECTION

WAC 388-77-880 FOOD ASSISTANCE. (1) The department shall provide FIP assistance units the value of food stamps in cash.

(2) The effective date of FIP food assistance shall be the date the application was received by the department.

(3) The department shall prorate initial food stamp benefits for an applicant from the date of application to the end of the month.

NEW SECTION

WAC 388-77-900 OVERPAYMENT—LIABILITY. (1) The financial recovery office is responsible for the establishment of accounts receivable and for the recovery of FIP overpayments.

(2) The department shall not establish an accounts receivable or take collection action to recover FIP cash assistance overpayments resulting from the department's failure to act on information received timely from recipients or the department's misapplication of the eligibility rules.

(3) The department shall determine if an overpayment is either:

(a) Unintentional; or

(b) Intentional.

(i) When the department finds an applicant/recipient, has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume such act was done intentionally. This presumption is rebuttable.

(ii) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action.

(4) The department shall not establish an accounts receivable for unintentional overpayments when the amount of the overpayment is less than thirty-five dollars and the individual is not receiving a grant at the time the overpayment is discovered and/or computed.

NEW SECTION

WAC 388-77-905 OVERPAYMENTS—RESPONSIBILITY FOR REPAYMENT. (1) The department shall collect overpayments from:

(a) The assistance unit that was overpaid;

(b) Any assistance unit of which a member of the overpaid assistance unit subsequently becomes a member; or

(c) Any individual members of the overpaid assistance unit whether or not they are currently recipients.

(2) When an individual acts as a payee only:

(a) The department shall establish the overpayment accounts receivable in the name of the person who received the financial benefit of the payment of assistance; and

(b) The department shall not establish a liability for overpayment to the payee when the payee derives no financial benefit from the payment of assistance.

(3) The recipient is required to pay all overpayments except those not established under WAC 388-77-900(2) and 388-77-900(4).

NEW SECTION

WAC 388-77-915 OVERPAYMENT—SUPPORT PAYMENTS NOT TREATED AS OVERPAYMENT. A parent or caretaker relative shall remit to the office of support enforcement support payments they receive directly from the absent parent. The department shall not treat such payments as a grant overpayment but consider them as a debt to be collected by the department.

NEW SECTION

WAC 388-77-920 NOTIFICATION OF OVERPAYMENT. The department shall send a letter to any current or former recipient, or any former or current payee for whom an overpayment has occurred. The letter shall include in the letter the following information:

- (1) The amount of the overpayment;
- (2) The circumstances that brought about the overpayment;
- (3) The dates the overpayment occurred;
- (4) An explanation of the method of repayment and the effect of the overpayment on future grant payments;
- (5) A determination that an intentional overpayment is or is not involved;
- (6) A statement that overpayments are debts due the state;
- (7) A computation of the amount due the state;
- (8) A statement that:
 - (a) The financial recovery office shall implement collection action; and
 - (b) Such action may subject the property of the debtor to lien and/or orders to withhold and deliver; and
 - (c) Net proceeds of subsection (8)(a) and (b) of this section shall be applied to satisfy the overpayment debt;
- (9) A statement that action to collect the debt as in subsections (8)(a), (b), and (c) of this section is lawful after 90 days from the debtor's termination from FIP assistance or receipt of the notice of debt, whichever is later; and
- (10) A statement of the right to a fair hearing.

NEW SECTION

WAC 388-77-925 OVERPAYMENTS—SERVICE OF NOTICE. (1) The department shall notify a person who has incurred an overpayment of that debt by:

- (a) Personal service; or
- (b) Certified mail, return receipt requested, addressee only.
- (2) Personal service may be made by:
 - (a) An employee of DSHS; or
 - (b) The sheriff of the county where the recipient of FIP assistance resides. When service is made by the sheriff, the sheriff shall routinely furnish an affidavit of service on the county's form; or
 - (c) Any other person 18 years of age or older who is competent to be a witness in the action.
- (3) Personal service may be made by delivering a copy of the overpayment letter as follows:
 - (a) If to a minor:
 - (i) To such minor personally, and also to the parent or guardian; or
 - (ii) In the absence of a parent or guardian, to any person having the care, custody, or control of such minor; or
 - (iii) To any person who is the payee of the minor's grant; or
 - (iv) To any person with whom the minor resides; or
 - (v) To any person in whose service the minor is employed.
 - (b) If to any person for whom a guardian has been appointed for any cause, then to such guardian;
 - (c) If to a company or corporation, to the president or other head of the company or corporation, secretary, cashier, or managing agent thereof or the secretary, stenographer, or office assistant of the above;
 - (d) In all other cases, to the debtor personally or by leaving a copy of the letter at the residence of the debtor's usual abode with some person of suitable age and discretion residing therein;
 - (e) If joint liability exists, the department shall provide each debtor a copy;
 - (f) Out-of-state service shall be the same as personal service within the state; and
 - (g) Refusal of such notice by the debtor is proof of notice to the debtor of the debt owed.

(4) Nothing in this section precludes the department from recovering overpayments by deduction from subsequent assistance payments under FIP or any other program of assistance.

NEW SECTION

WAC 388-77-930 REPAYMENT OF OVERPAYMENT FROM CURRENT RECIPIENTS. (1) The individual or the overpaid assistance unit shall repay an overpayment from any or all of the following:

- (a) Resources; and/or
- (b) By deductions from subsequent grants; and/or
- (c) According to terms of a court order resulting from civil or criminal action initiated by the department against the individual, but not to the exclusion of other recovery actions afforded the department by law; and/or
- (d) From an estate upon death.
- (2) The department may recoup overpayments of pre-FIP grants and/or food stamp benefits by means of a deduction from the current FIP payment:
 - (a) The department shall deduct pre-FIP food stamp overpayments from the food stamp portion of the benchmark standard at the percentage established in chapter 388-49 WAC; and
 - (b) The department shall deduct pre-FIP grant overpayments from the assistance payment standard portion of the benchmark standard at the percentage established in chapter 388-44 WAC.
- (3) The department may recoup overpayments of FIP cash assistance overpayments from non-FIP grants by means of a mandatory grant deduction the same as under WAC 388-77-930 (6) and (7).
- (4) Policies regarding food stamps received in excess of the amount the household was entitled to receive are outlined in chapter 388-49 WAC.
- (5) The department may not reduce FIP cash assistance money grant to recover overpayments of medical assistance.
- (6) The department shall use a mandatory grant deduction of:
 - (a) Ten percent of the benchmark standard to liquidate an intentional FIP overpayment; and
 - (b) Five percent of the benchmark standard to liquidate an unintentional FIP overpayment.
- (7) If the recipient refuses to use cash, bank accounts, or marketable securities to repay an intentional overpayment, the department shall establish a monthly deduction of 100 percent of future grants until such a time as the grant amounts equal the value of cash, bank accounts, or marketable securities withheld.
- (8) The department shall, by the end of the quarter following the quarter in which the overpayment is first identified:
 - (a) Notify the individual that the repayment may be made by full payment within 30 days of notice; or
 - (b) The department shall make a mandatory deduction from the grant.
- (9) The department may file a lien against the property of the debtor.

NEW SECTION

WAC 388-77-940 RECOVERY OF OVERPAYMENTS—FORMER RECIPIENTS. The financial recovery office shall recover overpayments from a former recipient and may use any or all of the following remedies:

- (1) File a lien against the property of the debtor;
- (2) Accept voluntary repayment agreements from the debtor;
- (3) Issue an order to withhold and deliver the debtor's wages, earnings, income property, and/or accounts;
- (4) Request an assignment of wages from the debtor;
- (5) Pursue recovery in small claims court or pursue in civil courts; and/or
- (6) Pursue recovery from an estate after death.

NEW SECTION

WAC 388-77-945 GIFTS, BEQUESTS BY WILL, CONTRIBUTIONS. (1) The department may accept gifts, bequests, or contributions in cash or otherwise from persons, associations, or corporations.

(2) The department shall not accept a gift or contribution from a person eligible for FIP assistance.

(3) The department shall advise a recipient of FIP assistance or any other person desiring information or assistance regarding the preparation of a will to contact an attorney of their choice or the local legal services society.

NEW SECTION

WAC 388-77-975 SUBROGATION. (1) If any payment of FIP assistance is made or increased for the benefit of any dependent child because of the failure of the responsible parents to provide adequate support, such parents are liable to the state in the amount of the assistance granted.

(2) The need of the child and of the caretaker relative shall be deemed met by the responsible parents only if support is provided in an amount equal to the lesser of the payment required by court order, or the amount of assistance paid by the department.

WSR 88-04-090
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Order 2595—Filed February 3, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to general provisions, new chapter 248-172 WAC.

This action is taken pursuant to Notice No. WSR 88-01-124 filed with the code reviser on December 23, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 304, Laws of 1987 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 2, 1988.

By Leslie F. James, Director
Administrative Services

Chapter 248-172 WAC
GENERAL PROVISIONS

NEW SECTION

WAC 248-172-101 DEFINITIONS. The following definitions shall apply in this chapter, unless the context otherwise requires:

(1) "Amplifier" means an electrical device for use with a telephone which amplifies the sounds being received during a telephone call.

(2) "Applicant" means a person who applies for a telecommunication device for the deaf (hereinafter TDD), signal device, or amplifier.

(3) "Audiologist" means a person who has a masters or doctoral degree in audiology and a certificate of clinical competence in audiology from the American speech, hearing, and language association.

(4) "Deaf-blind" means a hearing loss and a visual impairment that require use of a TDD to communicate effectively on the telephone, and may require a specific TDD for a person with limited sight, as certified pursuant to WAC 248-172-201.

(5) "Department" means the department of social and health services.

(6) "Distribution center" means a facility under contract to DSHS to distribute TDDs, signal devices, and amplifiers, provide training in the use of that equipment, and receive equipment in need of repair or being returned.

(7) "Hearing impaired" means a hearing loss that requires use of either a TDD or an amplifier to communicate effectively on the telephone, and requires the use of a signal device to indicate when the telephone is ringing, as certified pursuant to WAC 248-172-201.

(8) "ODS" means the office of deaf services, department of social and health services.

(9) "Out-of-area" means any location more than 100 miles radius from a contract distribution center.

(10) "Qualified trainer" means a person who is knowledgeable about TDDs, signal devices, and amplifying accessories, and their appropriate use for recipients with differing hearing impairments and for those who are also vision impaired. This person shall also be fluent in American sign language, as well as being able to communicate with hearing-impaired persons who use other communication modes.

(11) "Recipient" means any person who has received a state-issued TDD, signal device, or amplifier.

(12) "School age" means any child who has reached six years of age, pursuant to WAC 388-73-012.

(13) "Signal device" means electronic device that alerts a hearing-impaired or deaf-blind applicant of an incoming telephone call.

(14) "Telecommunication device for the deaf" (TDD) means an electrical device for use with a telephone that utilizes a keyboard, acoustic coupler, display screen, and/or braille display to transmit and receive messages.

(15) "Telephone relay center" means a facility authorized by ODS to provide telephone relay services.

(16) "Telephone relay service" means the provision of voice and teletype communication between users of TDDs and other parties using telephones without TDDs.

NEW SECTION

WAC 248-172-201 ELIGIBILITY REQUIREMENTS. (1) Eligible applicants shall be:

(a) Hearing impaired; or

(b) Deaf-blind; and

(c) At least school age.

(2) Eligible applicants shall be certified in writing as hearing impaired or deaf-blind by one of the following:

(a) A person licensed to practice medicine in the state of Washington;

(b) An audiologist as specified under WAC 248-172-101(2);

(c) A vocational rehabilitation counselor in a local division of vocational rehabilitation office;

(d) One of the deaf specialists or coordinators at one of the four community service centers for the deaf and

hard of hearing in Seattle, Tacoma, Spokane, and Yakima;

(e) A deaf-blind specialist or coordinator at Helen Keller regional office, Washington deaf blind service center, or eye specialist; and

(f) Any other individual signing the certification of impairment for an applicant shall attach a written statement of their qualifications to make this determination, subject to approval from ODS.

(3) ODS may require additional documentation to determine if the applicant meets the foregoing eligibility requirements.

(4) To receive a TDD, an eligible applicant or his or her legal guardian or legal custodian shall demonstrate an ability to send and receive messages with a TDD, during the training session required by WAC 248-172-302.

NEW SECTION

WAC 248-172-202 APPROVAL OF APPLICATION FOR INITIAL DEVICE OR REQUEST FOR REPLACEMENT DEVICE. (1) If an applicant is determined to be eligible, ODS shall approve the application except as stated in WAC 248-172-203 (1)(a) or (b).

(2) If a recipient is determined to need a replacement TDD or other accessory, and is not disqualified pursuant to WAC 248-172-203(2), ODS shall approve the request.

(3) Initial or replacement equipment will be provided based upon the availability of equipment and/or funds.

NEW SECTION

WAC 248-172-203 DENIAL OF INITIAL APPLICATION OR REQUEST FOR REPLACEMENT DEVICE. (1) Denial of initial application. ODS shall deny an original application for a TDD or other device if:

(a) Applicant does not meet the eligibility requirements of WAC 248-172-201; or

(b) Applicant has already been issued a similar device.

(2) Denial of replacement request. ODS shall deny a request for replacement of a TDD or other device if:

(a) The device previously issued has, either through negligence or intent, been subjected to abuse, misuse, unauthorized repair, or other negligent or intentional conduct damaging to the equipment; or

(b) The recipient fails to file with the police a report of the stolen device within ten working days of discovering the theft; or

(c) The recipient has lost the device; and

(d) The recipient can show reasonable cause for the damage or loss, the ODS may, in its discretion, issue a replacement issue.

NEW SECTION

WAC 248-172-204 REAPPLICATION PROCESS. (1) An applicant, whose initial application was

denied by ODS, may reapply for service when the circumstances, which resulted in the original denial, cease to exist.

(2) An applicant, whose application for replacement equipment was denied, may reapply if:

(a) They pay a damage deposit of an amount determined by ODS; and

(b) It has been a year since the initial denial; or

(c) ODS has been reimbursed.

NEW SECTION

WAC 248-172-205 NOTICE OF APPROVAL OR DENIAL. (1) Approved applications. When an original application has been approved, ODS shall inform the applicant in writing of:

(a) The location of the distribution center or out-of-area address where applicant may receive the TDD, signal device, or amplifier, or combination of those which has been approved; and

(b) The contact person or agency for the applicant to contact to arrange for the required training, in the case of approval of an application for a TDD or an amplifier.

(2) Approved requests for replacement. When a request for a replacement TDD or other device has been approved, the ODS shall inform the recipient of the procedure for obtaining a replacement device.

(3) Denied applications or requests for replacement. If an original application or replacement request is denied, ODS shall inform the applicant or recipient in writing of the reasons for the denial and of any applicable procedures for appeal, as well as the circumstances under which that individual may reapply.

NEW SECTION

WAC 248-172-206 REVIEW BY DEPARTMENT. (1) An applicant or recipient, whose request for an original or replacement device governed under these regulations has been denied, may request a review of this decision by the department. This request must be submitted in writing to ODS, specifying the basis for the request, and must be received by ODS within 30 days of the receipt of the denial notice.

(2) Postmarked within 30 days of mailing the denial, the request for review, the department shall inform the applicant or recipient in writing of the disposition of the request.

(3) If the applicant or recipient disagrees with the decision by the department, the applicant or recipient may appeal as pursuant to chapters 10-08 and 388-08 WAC.

NEW SECTION

WAC 248-172-301 DISTRIBUTION CENTERS. (1) The department shall issue contracts on a competitive basis, to qualified persons or agencies, to act as distribution centers. The department shall ensure reasonable accessibility to such centers for all hearing-impaired and deaf-blind individuals in the state.

(2) ODS, in cooperation with the TDD advisory committee, shall have responsibility for development of qualifying criteria for potential contractors to act as distribution centers.

(3) Distribution centers shall have various responsibilities, which include, but are not limited to:

(a) Conducting trainings for the applicants in the use of the equipment;

(b) Requiring all recipients, legal guardians, or legal custodians to sign a condition of acceptance form supplied by ODS; and

(c) Distributing TDDs, amplifiers, and signal devices to applicants.

(d) Issuing a replacement device to an applicant, determined by ODS to be eligible under WAC 248-172-201, except when that applicant is denied a replacement pursuant to WAC 248-172-203(2);

(e) Accepting a device needing repair; and

(f) Delivering a malfunctioned device to a repair center designated by ODS.

(4) ODS shall be responsible for arranging necessary training and distribution of a device to an individual who is an "out-of-area" resident.

(5) Neither the ODS nor the contract distribution centers shall provide replacement paper for TDDs, replacement light bulbs for signal devices, payment of the recipient's telephone bill, or any other extraneous cost incurred by the recipient in the use of any devices distributed under these regulations.

(6) ODS shall provide for all routine maintenance and repair of the equipment due to normal use.

NEW SECTION

WAC 248-172-302 TRAINING. (1) The distribution centers shall provide training to all recipients, legal guardians, or legal custodians in accordance with guidelines established by the TDD advisory committee.

(2) No applicant shall be issued a device until the applicant has completed the required training. If the applicant is under 18 years of age, his or her legal guardian or legal custodian shall also attend the training. The applicant or his or her legal guardian or legal custodian shall also demonstrate the ability to utilize the device being issued at the discretion of the trainer.

(3) At the discretion of ODS, any recipient who has been issued a device in the past, and is being issued a replacement device, may be required to retake training prior to such issuance.

NEW SECTION

WAC 248-172-303 OWNERSHIP AND LIABILITY. (1) All TDDs and other devices pursuant to chapter 304, Laws of 1987, are the sole property of the state of Washington.

(2) A recipient, his or her legal guardian, or legal custodian shall return a TDD and/or other device to the ODS or appropriate distribution center when the recipient:

(a) Moves their permanent residence to a location outside Washington;

(b) Does not have need of the device; or

(c) Has been notified by ODS to return the device.

(3) A recipient, and/or his or her legal guardian, or legal custodian are liable for any damage to or loss of any device issued under these regulations.

(4) ODS shall establish policies for the sale of any device returned and no longer appropriate for re-assignment.

NEW SECTION

WAC 248-172-304 OUT-OF-STATE USE. (1) No person shall remove a TDD or other device from the state of Washington for a period longer than 90 days without the written permission of ODS.

(2) ODS may grant permission to remove a TDD or other device from the state for more than 90 days if ODS determines it is in the best interest of the recipient and the department.

NEW SECTION

WAC 248-172-401 TDD ADVISORY COMMITTEE APPOINTMENT. (1) The DSHS advisory committee on deafness, with the assistance of ODS, shall establish a TDD advisory committee. The committee shall include representation from:

(a) Hearing-impaired communities in Washington state;

(b) The department;

(c) The Washington utilities and transportation commission;

(d) Local telephone exchange companies; and

(e) Agencies and services serving a hearing-impaired person.

(2) The term of office on the committee shall be three years with the possibility of reappointment for the second term.

(3) Members under WAC 248-172-401 (1)(a) shall have voting rights. The rest of the committee shall serve as ex-officio members.

(4) The committee shall determine the appointment of the chairperson for that committee by vote of the membership.

(5) The committee shall meet as necessary to fulfill the objectives of the committee and ODS.

(6) ODS shall arrange the site and make other arrangements for all committee meetings.

NEW SECTION

WAC 248-172-402 RESPONSIBILITIES OF TDD ADVISORY COMMITTEE. (1) The committee shall:

(a) Study the feasibility of implementing a statewide telecommunications relay system;

(b) Monitor, in conjunction with ODS, the activities and money being spent by the department for this program;

(c) Establish criteria for and specify statewide organizations representing a hearing-impaired person, for purposes of these regulations; and

(d) Study and determine the number of hearing-impaired persons who have party lines and the costs of converting those lines to single lines. The committee shall report these study findings to the Washington utilities and transportation commission by no later than July 27, 1988.

(2) In order to carry out the above, the TDD advisory committee shall receive from ODS a semi-annual status report of activities and expenditures related to this program.

WSR 88-04-091
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning permits for developments on shorelines of the state, amending chapter 173-14 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1988.

The authority under which these rules are proposed is RCW 90.58.200.

This notice is connected to and continues the matter in Notice No. WSR 88-01-014 filed with the code reviser's office on December 8, 1987.

Dated: February 2, 1988
 By: Phillip C. Johnson
 Deputy Director, Programs

WSR 88-04-092
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Des Moines, city of, amending WAC 173-19-2507.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1988.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

This notice is connected to and continues the matter in Notice No. WSR 87-24-066 filed with the code reviser's office on December 1, 1987.

Dated: February 2, 1988
 By: Phillip C. Johnson
 Deputy Director, Programs

WSR 88-04-093
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed February 3, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Steilacoom, town of, amending WAC 173-19-3512.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1988.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

This notice is connected to and continues the matter in Notice No. WSR 88-02-063 filed with the code reviser's office on January 6, 1988.

Dated: February 2, 1988
 By: Phillip C. Johnson
 Deputy Director, Programs

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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217-17-115	AMD-P	88-03-014	230-02-280	NEW-P	88-03-024	284-74-200	NEW	88-04-054
217-17-120	AMD-P	88-03-014	230-02-290	NEW-P	88-03-024	284-91-025	NEW-P	88-04-056
217-17-125	AMD-P	88-03-014	230-04-197	REP-P	88-03-024	284-91-027	NEW-P	88-04-056
217-17-135	AMD-P	88-03-014	230-08-010	AMD-P	88-03-024	296-14-900	NEW-P	88-04-050
217-17-140	AMD-P	88-03-014	230-08-017	NEW-P	88-03-024	296-14-910	NEW-P	88-04-050
217-17-170	AMD-P	88-03-014	230-08-025	AMD-P	88-03-024	296-14-920	NEW-P	88-04-050
217-17-185	AMD-P	88-03-014	230-08-130	AMD-P	88-03-024	296-14-930	NEW-P	88-04-050
217-17-195	AMD-P	88-03-014	230-08-170	REP-P	88-03-024	296-14-940	NEW-P	88-04-050
217-17-203	AMD-P	88-03-014	230-20-064	AMD-P	88-03-024	296-14-950	NEW-P	88-04-050
217-17-225	AMD-P	88-03-014	230-20-325	AMD-P	88-03-024	296-14-960	NEW-P	88-04-050
217-17-230	AMD-P	88-03-014	230-20-605	AMD-P	88-03-024	296-17-349	NEW-P	88-02-059
217-17-235	AMD-P	88-03-014	230-20-610	AMD-P	88-03-024	296-17-55201	NEW-P	88-02-060
217-17-245	AMD-P	88-03-014	230-20-615	NEW-P	88-03-024	296-17-885	AMD-P	88-02-060
217-17-250	AMD-P	88-03-014	230-20-630	AMD-P	88-03-024	296-17-895	AMD-P	88-02-060
217-17-260	AMD-P	88-03-014	230-20-699	NEW-P	88-03-024	296-20-03001	AMD-W	88-04-049
217-17-265	AMD-P	88-03-014	230-30-015	AMD-P	88-03-024	296-20-045	AMD-C	88-04-051
217-17-270	AMD-P	88-03-014	230-30-018	AMD-P	88-03-024	296-21-128	AMD	88-04-052
217-17-335	AMD-P	88-03-014	230-30-072	NEW-P	88-03-024	296-23-620	REP-C	88-04-051
217-17-345	AMD-P	88-03-014	230-30-300	NEW-P	88-03-024	296-81-008	AMD-P	88-04-053
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217-17-362	NEW-P	88-03-014	232-28-61618	NEW-E	88-03-023	304-12-290	AMD-P	88-03-018
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220-20-010	AMD-P	88-03-075	248-19-373	AMD	88-04-047	308-13-150	AMD	88-04-027
220-48-01500A	NEW-E	88-03-009	248-100-011	AMD-P	88-03-022	308-42-015	NEW-P	88-03-033
220-48-02900B	NEW-E	88-03-009	248-100-025	REP-P	88-03-022	308-53-010	AMD-P	88-03-071
220-55-06500A	NEW-E	88-02-048	248-100-026	NEW-P	88-03-022	308-53-030	AMD-P	88-03-071
220-55-07000A	NEW-E	88-02-048	248-100-036	NEW-P	88-03-022	308-53-100	AMD-P	88-03-071
220-55-07500A	NEW-E	88-02-048	248-100-050	REP-P	88-03-022	308-53-120	AMD-P	88-03-071
220-55-07600A	NEW-E	88-02-048	248-100-163	REP-P	88-03-022	308-53-145	AMD-P	88-03-071
220-55-12000A	NEW-E	88-02-048	248-100-164	REP-P	88-03-022	308-53-170	AMD-P	88-03-071
220-55-13000A	NEW-E	88-02-048	248-100-166	NEW-P	88-03-022	308-61-026	AMD-E	88-04-026
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308-90-020	REP 88-03-038	308-180-120	AMD-P 88-02-061	356-26-080	AMD-P 88-04-068
308-90-030	AMD-E 88-03-001	308-180-210	AMD-P 88-02-061	356-30-015	AMD-P 88-04-068
308-90-030	AMD 88-03-038	308-180-220	AMD-P 88-02-061	356-30-020	REP-P 88-04-066
308-90-040	AMD-E 88-03-001	308-180-250	AMD-P 88-02-061	356-30-030	REP-P 88-04-066
308-90-040	AMD 88-03-038	308-180-270	NEW-P 88-02-061	356-30-040	REP-P 88-04-066
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308-90-110	AMD-E 88-03-001	308-195-110	NEW-P 88-03-034	356-34-010	AMD-P 88-04-067
308-90-110	AMD 88-03-038	308-410-010	NEW 88-03-037	356-34-020	AMD 88-03-043
308-90-120	NEW-E 88-03-001	308-410-020	NEW 88-03-037	356-34-030	AMD 88-03-043
308-90-120	NEW 88-03-038	308-410-030	NEW 88-03-037	356-34-040	AMD 88-03-043
308-90-130	NEW-E 88-03-001	308-410-040	NEW 88-03-037	356-34-045	NEW 88-03-043
308-90-130	NEW 88-03-038	308-410-050	NEW 88-03-037	356-34-050	AMD 88-03-043
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308-90-150	NEW 88-03-038	314-16-190	AMD-P 88-04-082	360-08-005	NEW-P 88-03-036
308-90-160	NEW-E 88-03-001	314-36-010	AMD-P 88-04-087	360-08-030	REP-P 88-03-036
308-90-160	NEW 88-03-038	314-36-020	AMD-P 88-04-087	360-08-070	REP-P 88-03-036
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308-91-020	REP-E 88-03-030	314-36-050	AMD-P 88-04-087	360-08-100	REP-P 88-03-036
308-91-020	REP-P 88-03-067	314-36-060	AMD-P 88-04-087	360-08-110	REP-P 88-03-036
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308-91-030	AMD-P 88-03-067	314-36-080	AMD-P 88-04-087	360-08-130	REP-P 88-03-036
308-91-040	AMD-E 88-03-030	314-36-090	AMD-P 88-04-087	360-08-140	REP-P 88-03-036
308-91-040	AMD-P 88-03-067	314-36-100	AMD-P 88-04-087	360-08-410	REP-P 88-03-036
308-91-050	AMD-E 88-03-030	314-36-110	AMD-P 88-04-087	360-08-430	REP-P 88-03-036
308-91-050	AMD-P 88-03-067	314-36-120	REP-P 88-04-087	360-08-440	REP-P 88-03-036
308-91-060	AMD-E 88-03-030	314-36-130	AMD-P 88-04-087	360-08-450	REP-P 88-03-036
308-91-060	AMD-P 88-03-067	314-40-040	AMD-P 88-04-083	360-08-460	REP-P 88-03-036
308-91-070	AMD-E 88-03-030	314-52-114	AMD-P 88-04-060	360-08-470	REP-P 88-03-036
308-91-070	AMD-P 88-03-067	314-52-114	AMD-E 88-04-061	360-08-480	REP-P 88-03-036
308-91-080	AMD-E 88-03-030	315-11-310	NEW-P 88-02-062	360-08-490	REP-P 88-03-036
308-91-080	AMD-P 88-03-067	315-11-311	NEW-P 88-02-062	360-08-500	REP-P 88-03-036
308-91-090	AMD-E 88-03-030	315-11-312	NEW-P 88-02-062	360-08-510	REP-P 88-03-036
308-91-090	AMD-P 88-03-067	315-20-090	AMD-P 88-02-062	360-18-020	AMD-P 88-03-066
308-91-100	REP-E 88-03-030	315-30-080	AMD-P 88-02-062	360-18-025	NEW-P 88-03-066
308-91-100	REP-P 88-03-067	315-32-050	AMD-P 88-02-066	360-60-010	NEW-P 88-03-036
308-91-110	REP-E 88-03-030	320-16-020	NEW 88-04-080	360-60-020	NEW-P 88-03-036
308-91-110	REP-P 88-03-067	352-12-010	AMD-P 88-04-075	360-60-030	NEW-P 88-03-036
308-91-120	NEW-E 88-03-030	352-12-020	AMD-P 88-04-075	360-60-040	NEW-P 88-03-036
308-91-120	NEW-P 88-03-067	352-32-035	AMD-P 88-04-075	365-180-010	NEW 88-02-042
308-91-130	NEW-E 88-03-030	352-32-045	AMD-P 88-04-075	365-180-020	NEW 88-02-042
308-91-130	NEW-P 88-03-067	352-32-250	AMD-P 88-04-075	365-180-030	NEW 88-02-042
308-91-140	NEW-E 88-03-030	352-74-030	AMD-P 88-04-075	365-180-040	NEW 88-02-042
308-91-140	NEW-P 88-03-067	352-74-040	AMD-P 88-04-075	365-180-050	NEW 88-02-042
308-91-150	NEW-E 88-03-030	352-74-060	AMD-P 88-04-075	365-180-060	NEW 88-02-042
308-91-150	NEW-P 88-03-067	352-74-070	AMD-P 88-04-075	365-180-070	NEW 88-02-042
308-91-160	NEW-E 88-03-030	356-05-005	REP-P 88-04-066	365-180-080	NEW 88-02-042
308-91-160	NEW-P 88-03-067	356-05-145	REP-P 88-04-066	365-180-090	NEW 88-02-042
308-91-170	NEW-E 88-03-030	356-05-320	AMD-P 88-04-068	388-14-010	AMD-P 88-02-055
308-91-170	NEW-P 88-03-067	356-05-330	REP-P 88-04-066	388-14-010	AMD-E 88-02-056
308-117-030	AMD-P 88-04-077	356-05-123	NEW 88-03-040	388-14-020	AMD-P 88-02-055
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308-124B-010	REP-P 88-02-051	356-05-360	AMD 88-03-041	388-14-200	AMD-E 88-02-056
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388-14-325	REP-E 88-02-056	388-77-360	NEW-P 88-04-089	388-98-020	NEW-P 88-03-054
388-14-370	AMD-P 88-02-055	388-77-365	NEW-P 88-04-089	390-20-022	NEW-C 88-04-062
388-14-370	AMD-E 88-02-056	388-77-370	NEW-P 88-04-089	390-20-056	NEW-P 88-04-063
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388-15-208	AMD-P 88-02-065	388-77-605	NEW-P 88-04-089	392-121-111	NEW 88-03-013
388-15-209	AMD-P 88-02-065	388-77-610	NEW-P 88-04-089	392-121-115	REP 88-03-013
388-15-212	AMD-P 88-02-065	388-77-615	NEW-P 88-04-089	392-121-120	REP 88-03-013
388-15-213	AMD-P 88-02-065	388-77-640	NEW-P 88-04-089	392-121-121	REP 88-03-013
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388-15-695	NEW 88-03-020	388-77-730	NEW-P 88-04-089	392-121-127	REP 88-03-013
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