

JULY 6, 1988

OLYMPIA, WASHINGTON

ISSUE 88-13



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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		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing/adoption on or after</i>
87-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6
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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
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88-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
88-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
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.

³No 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 88-12-029
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed May 25, 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 adult residential rehabilitation centers and private adult treatment homes, amending chapter 248-25 WAC;

that the agency will at 10:00 a.m., Tuesday, July 26, 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 July 27, 1988.

The authority under which these rules are proposed is RCW 71.24.035.

The specific statute these rules are intended to implement is Title 71 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12, 1988. The meeting site is in a location which is barrier free.

Dated: May 24, 1988

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-25 WAC.

Purpose of the Rule Change: To update rules adopted in 1982 and provide a primary focus on psycho-social rehabilitation with emphasis on functional improvement.

Reasons These Rules are Necessary Include: Licensure rules for establishments receiving or caring for the mentally ill are required pursuant to chapter 71.12 RCW; less costly and less restrictive residential alternatives to psychiatric hospitalization are required; and clarification is necessary in order to maintain federal resources for people requiring psychiatric care outside of hospitals.

Statutory Authority: Chapter 71.12 RCW.

Summary: Chapter 248-25 WAC describes minimum licensing standards of safety and adequate care required for operation and maintenance of adult residential rehabilitation centers and private adult treatment homes.

Amendments prepared by the licensure staff in the Division of Health and staff of the mental health division would change certain phrases and words to: Emphasize resident movement toward functional capability vs. focus on characteristics of illness, clarify the nature of these noninstitutional settings to potential users and funding sources, revise outdated subsection related to tuberculosis screening, and reformat, edit and add definitions as required.

Persons Responsible for Drafting and Enforcement of the Rule: Ken Lewis, Section Head, Health Facility Survey Section, mailstop ET-31, phone 753-5851.

Rules proposed by DSHS.

These rules are not necessary as a result of a federal law, federal court decision or state court decision.

Chapter 248-25 WAC
ADULT RESIDENTIAL ((TREATMENT FACILITIES)) REHABILITATION CENTERS AND PRIVATE ADULT TREATMENT HOMES

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-001 PURPOSE. The purpose of these regulations is to ((provide)) administratively implement chapter 71.12 RCW by providing standards for ((the establishment of)) health and safety for persons admitted to residential ((facilities)) rehabilitation centers and private adult treatment homes. Adult residential rehabilitation centers and private adult treatment homes are designed and operated primarily to assist psychiatrically impaired adults to live as independently as possible and to provide essential care, treatment, and training in the skills of individual and community living. This shall be a level of care other than hospital inpatient care. ((Rules and regulations for private adult treatment homes certified as evaluation and treatment facilities under chapter 71.05 RCW are contained herein.))

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-002 DEFINITIONS. (1) "Abuse" means injury, sexual use or abuse, negligent or maltreatment of a ((client)) resident by a person legally responsible for the ((client's)) resident's welfare under circumstances ((indicating)) which indicate harm to the ((client's)) resident's health, welfare, and safety ((is harmed thereby)).

Person "legally responsible" shall include a guardian or a person to whom legal responsibility has been delegated (e.g., providers of residential care, day care, etc.).

(a) "Physical abuse" means damaging or potentially damaging, nonaccidental acts or incidents resulting in bodily injury or death.

(b) "Emotional abuse" means verbal behavior, harassment, or other actions resulting in emotional or behavioral problems, physical manifestations, disordered or delayed development.

(2) "Administrator" means the individual appointed as chief executive officer by the governing body of the facility, to act in the facility's behalf in the overall management of the residential ((treatment facility)) rehabilitation center.

(3) "Adult residential ((treatment facility)) rehabilitation center" or "center" means a residence, place, or facility designed and organized primarily to provide twenty-four-hour residential care, crisis and short-term care, and/or long-term individualized active ((treatment)) rehabilitation and ((rehabilitation)) treatment for ((clients)) residents diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter ((204, Laws of 1982)) 71.24 RCW.

(4) "Ambulatory" means ((a-client)) physically and mentally ((capable of walking)) able to:

(a) Walk unaided or ((is capable of independent mobility)) move about independently with only the ((use)) help of a cane, crutches, walkerette, walker, wheelchair, or artificial limb((- Ambulatory shall be interpreted to mean an individual able to walk or));

(b) Traverse a normal path to safety unaided by another individual((- Ambulatory shall not be interpreted to mean an individual needing the assistance of another individual in order to));

(c) Get into and out of bed((-to)) without assistance of another individual; and

~~((d))~~ Transfer to a chair or toilet or ~~((to))~~ move from place to place without assistance of another individual.

~~(5)~~ "Authenticated" or "authentication" means authorization of a written entry in a record by means of a signature including minimally, first initial, last name, and title.

~~(6)~~ "Board and domiciliary care" means provision of daily meal service, lodging, and care offered within the living accommodation and includes the general responsibility for safety and well-being of the ~~((client))~~ resident with provision of assistance in activities of daily living as needed.

~~(7)~~ ~~((Client))~~ means an individual living in an adult residential facility or private adult treatment home for the purpose of participating in treatment and rehabilitation psychiatric impairment or an individual living in the facility for board and domiciliary care.

~~(8)~~ "Clinical staff" means mental health professionals, paraprofessionals, and medical personnel appointed by the governing body of a residential treatment facility to provide direct client treatment, training, and rehabilitation services within the residential treatment facility; and includes full- and part-time staff and consultants.

~~(9))~~ "Corporal punishment" means punishment or negative reinforcement accomplished by direct physical contact of a harmful or potentially harmful nature regardless of whether or not damage is actually inflicted.

~~((10))~~ (8) "Department" means the Washington state department of social and health services.

~~((11))~~ (9) "Dietitian" means an individual meeting the eligibility requirements described in "Directory of Dietetic Programs Accredited and Approved," American Dietetic Association, Edition 100, 1980.

~~((12))~~ (10) "Discipline" means actions taken by personnel and staff to encourage the establishment of habits of self-control or to regulate unacceptable ~~((client))~~ resident behavior. The individualized treatment plan shall define establishment of habits of self-control and unacceptable ~~((client))~~ resident behavior.

~~((13))~~ (11) "Drug administration" means an act where a single dose of a prescribed drug or biological is given to a ~~((client))~~ resident by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from the previously dispensed, properly labeled container (including the unit dose container), verifying the individual dose with the physician's orders, giving the individual dose to the proper ~~((client))~~ resident, and properly recording the time and the dose given.

~~((14))~~ (12) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, proper selection, measuring, labeling, packaging, and issuance of the drug for a ~~((client))~~ resident or for a service unit of the facility.

~~((15))~~ (13) "Dwelling" means any building or any portion thereof which is not an apartment house, lodging house or hotel, containing one or two guest rooms ~~((which are))~~ used, rented, leased, let, or hired out to be occupied for living purposes.

~~((16))~~ (14) "Governing body" means the individual or group ~~((tergally))~~ responsible for ~~((operation))~~ establishing and maintaining the purposes and ~~((maintenance))~~ policies of the residential ~~((treatment facility))~~ rehabilitation center.

~~((17))~~ (15) "Independent living skill training" consists of:

(a) Social skill training: A service designed to aid ~~((clients))~~ residents in learning appropriate social behavior in situations of daily living (e.g., the use of appropriate behavior in families, work settings, the residential ~~((facility))~~ center and other community settings).

(b) Self-care skills training: A service designed to aid ~~((clients))~~ residents in developing appropriate skills of grooming, self-care and other daily living skills such as eating, food preparation, shopping, handling money, the use of leisure time, and the use of other community and human services.

~~((18))~~ (16) "Individualized treatment plan or ITP" means a written statement of care to be provided to a ~~((client))~~ resident based upon assessment of his or her strengths, assets, interests, and problems. The statement shall include ~~((short- and long-term goals with))~~ stipulation of an estimated time frame ~~((stipulated))~~, identification of the process for attaining the goals, and a discharge plan. ~~((When possible, the statement shall be developed with participation of the client.))~~

~~((19))~~ (17) "Licensed practical nurse (LPN)" means an individual licensed under provisions of chapter 18.78 RCW.

(18) "Mental health professional" means the individuals described in RCW 71.05.020 and WAC 275-55-020.

~~((20))~~ (19) "Multidisciplinary treatment team" means the availability of a group comprised, when indicated, of individuals from various clinical disciplines, to include medicine, psychiatry, psychology, social work, nursing, occupational and recreational therapies, dietary, pharmacy, speech, and hearing services. Members of the ~~((group))~~ team shall assess, plan, implement, and evaluate ~~((treatment))~~ rehabilitation and ~~((rehabilitation))~~ treatment for ~~((clients))~~ residents under care.

~~((21))~~ (20) "Neglect" means negligent treatment or maltreatment or an act of omission, evincing a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to a ~~((client's))~~ resident's health, welfare, and safety.

(a) "Physical neglect" means physical or material deprivation (e.g., lack of medical care, lack of supervision necessary for ~~((client))~~ resident level of functioning, inadequate food, clothing, or cleanliness).

(b) "Emotional neglect" means acts such as rejection, lack of stimulation or other acts of commission or omission, resulting in emotional or behavioral problems, or physical manifestations.

~~((22))~~ (21) "New construction" means any of the following started after promulgation of these rules and regulations:

(a) New building(s) to be used as a part of the residential ~~((treatment facility))~~ rehabilitation center;

(b) ~~((Addition(s)))~~ Addition or additions to or conversions, either in whole or in part, of the existing ~~((building(s)))~~ building or buildings to be used as part of the residential ~~((treatment facility))~~ rehabilitation center;

(c) ~~((Alteration(s)))~~ Alteration or ~~((modification(s)))~~ modification other than minor ~~((alteration(s)))~~ alteration to a residential ~~((treatment facility))~~ rehabilitation center or to a facility seeking licensure as a residential ~~((treatment facility))~~ rehabilitation center;

(d) "Minor ~~((alteration(s)))~~ alteration" means any structural or functional ~~((modification(s)))~~ modification within the existing residential ~~((treatment facility))~~ rehabilitation center, without changing the approved use of the room or area. Minor alterations performed under this definition do not require prior approval of the department; however, this does not constitute a release from the applicable requirements contained in chapter 248-25 WAC.

~~((23))~~ (22) "Occupational therapist" means an individual ~~((having graduated with a bachelors degree from a university or college))~~ licensed as an occupational ~~((therapy program and having completed field work requirements))~~ therapist under provisions of chapter 18.59 RCW.

~~((24))~~ (23) "Owner" means an individual, partnership or corporation, or the legal successor thereof, operating residential ~~((treatment facilities))~~ rehabilitation centers for psychiatrically impaired adults, whether owning or leasing the premises.

~~((25))~~ (24) "Paraprofessional" means a person qualified, through experience or training, or a combination thereof, deemed competent while under supervision of a mental health professional, to provide counseling, rehabilitation, training, and treatment services to psychiatrically impaired adults. Such a person shall have, at a minimum:

(a) One year of training in the field of social, behavioral, or health sciences, and one year of experience in an approved treatment program for the mentally ill; or

(b) Two years of training in the field of social, behavioral, or health sciences; or

(c) Three years of work experience in an approved treatment program for the mentally ill.

~~((26))~~ (25) "Pharmacist" means an individual licensed by the state board of pharmacy to engage in the practice of pharmacy under the provisions of chapter 18.64 RCW.

~~((27))~~ (26) "Physician" means an individual licensed under the provisions of chapter 18.57 or 18.71 RCW.

~~((28))~~ (27) "Prescription" means the written or oral order for drugs issued by a duly licensed medical practitioner in the course of his or her professional practice, as defined by Washington state statutes for legitimate medical purposes ~~((--))~~ under the provisions of RCW 18.64.001 ~~((--(29)))~~.

(28) "Private adult treatment home" or "treatment home" means a dwelling which is the residence or home of ~~((two))~~ one or more adults providing food, shelter, beds, and care for two or fewer psychiatrically impaired ~~((clients))~~ residents, provided these ~~((clients))~~ residents are detained under chapter 71.05 RCW and the ~~((dwelling))~~ home is certified as an evaluation and treatment facility under provisions of chapter 71.05 RCW.

~~((30))~~ (29) "Psychiatric impairment" means serious mental disorders, excluding mental retardation, substance abuse disorders, simple

intoxication with alcohol or drugs, personality disorders, and specific developmental disorders as defined in the ~~((third edition of))~~ American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders," third edition, revised (DSM-III-R), ~~((1980))~~, where one or more of the following symptomatic behaviors is exhibited:

(a) Bizarreness, severe self-destructiveness, schizophrenic ideation, or other signs or symptoms resulting from gross, on-going distortions in thought processes;

(b) Suicide attempts or other signs or symptoms associated with marked, severe, or chronic affective disorders;

(c) Chronic sexual maladjustment, or other grossly maladaptive behaviors, in accordance with subsection ~~((30))~~(29)(a) or (b) of this section.

~~((31))~~ (30) "Psychiatrist" means a physician having successfully completed a three-year residency program in psychiatry and is eligible for certification by the American Board of Psychiatry and Neurology (ABPN) as described in "Directory of Residency Training Programs Accredited by the Accreditation Council for Graduate Medical Education," American Medical Association, 1981-1982, or eligible for certification by the American Osteopathic Board of Neurology and Psychiatry as described in "American Osteopathic Association Yearbook and Directory," 1981-1982.

~~((32))~~ (31) "Psychologist" means a person licensed as a psychologist in the state of Washington under provisions of chapter 18.83 RCW.

~~((33))~~ (32) "Recreational therapist" means a person with a bachelors degree with a major or option in therapeutic recreation or in recreation for ill and handicapped or a bachelors degree in a related field with equivalent professional experience.

~~((34))~~ (33) "Registered nurse" means an individual licensed under the provisions of chapter 18.88 RCW, regulating the practice of registered nursing in the state of Washington.

~~((35))~~ (34) "Rehabilitation services" means a combination of social, physical, psychological, vocational, and recreational services provided to strengthen and enhance the capability of psychiatrically impaired persons and to enable these persons to function with greater independence. The services include, but are not limited to, training in independent living skills.

(35) "Rehabilitation specialist" means mental health professionals, paraprofessionals, and medical personnel employed to work in a residential rehabilitation center to provide direct resident treatment, training, and rehabilitation services within the residential rehabilitation center, and includes full-time and part-time staff and consultants.

(36) "Resident" means an individual living in an adult residential center or private adult treatment home for the purpose of participating in rehabilitation and treatment for psychiatric impairment or an individual living in the facility for board and domiciliary care.

(37) "Restraint" means any apparatus or chemical used for the purpose of preventing or limiting free body movement.

~~((37))~~ "Scheduled drugs" means drugs, substances, or immediate precursors listed in Schedules I through V, Article II, RCW 69.50.201; State Uniform Controlled Substance Act, as now or hereafter amended;

(38) "Security window" means a window designed to inhibit exit, entry, and injury to a ((client)) resident, incorporating approved, safe, transparent material.

(39) "Self-administration of medication" means the ((client)) resident administers or takes his or her own medication from a properly labeled container: PROVIDED, That the facility maintains the responsibility to assure medications are used correctly and the ((client)) resident is responding appropriately.

(40) "Shall" means compliance with regulation is mandatory.

(41) "Should" means compliance with a regulation or standard is suggested or recommended, but not required.

(42) "Social worker" means an individual holding a masters degree in social work from a graduate school of social work.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-010 LICENSURE—ADULT RESIDENTIAL REHABILITATION CENTERS AND PRIVATE ADULT TREATMENT ((FACILITIES)) HOMES. ((Adult residential)) Centers and treatment ((facilities)) homes shall ((be licensed)) obtain a license under chapter 71.12 RCW. Chapter 248-25 WAC establishes

minimum licensing standards for the safety, adequate care, and treatment of ((clients)) residents living in ((a residential)) centers or treatment ((facility)) homes.

(1) Application for license.

(a) ~~((An application))~~ Applicants shall apply for a ((residential)) center or treatment ((facility)) home license ~~((shall be submitted))~~ on forms furnished by the department. ~~((Applications shall be signed by))~~ The owner or a legal representative of the owner shall sign the application.

(b) The applicant shall furnish to the department full and complete information and promptly report any changes ~~((effecting))~~ affecting the current accuracy of such information as to:

(i) The identity of each officer and director of the corporation, if the program is operated by legally incorporated entity, profit or nonprofit((:)); and

(ii) The identity of each partner, if the program is a legal partnership.

(2) Disqualified applicants.

(a) The department shall consider each and every individual named in an application for a ((residential facility)) center or treatment home license ~~((shall be considered))~~, separately and jointly, as applicants~~((; and))~~. If the department deems anyone ~~((is deemed))~~ disqualified or unqualified ~~((by the department))~~ in accordance with the law or these rules ~~((and regulations))~~, a license may be denied, suspended, or revoked. ~~((A license))~~

(b) The department may ~~((be denied))~~ deny, ~~((suspended))~~ suspend, or ~~((revoked))~~ revoke a license for failure or refusal to comply with the requirements and rules established ~~((by))~~ under provisions of chapter 71.12 RCW, ~~((or with rules and regulations promulgated pursuant thereto;))~~ and in addition, but not limited to, for any of the following:

(i) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation;

(ii) Permitting, aiding, or abetting the commission of an illegal act on the premises of ~~((the residential))~~ a center or treatment ((facility)) home;

(iii) Cruelty, abuse, neglect or assault, or indifference to the welfare of any ((client)) resident;

(iv) Misappropriation of the property of the ((client)) resident;

(v) Failure or inability to exercise fiscal accountability and responsibility toward the individual ((client)) resident, the department, or the business community.

~~((b))~~ Before granting a license to operate a residential treatment facility;

(c) The department shall consider the ability of each individual named in the license application prior to granting a license to determine:

(i) Ability of each individual ~~((named in the application))~~ to operate the ((residential)) center or treatment ((facility)) home in accordance with the law and ~~((with))~~ these ~~((regulations. Individuals previously denied))~~ rules;

(ii) If there is cause for denial of a license to an individual named in the application for any of the following reasons:

(A) Previous denial of a license to operate a health or personal care facility in ~~((the state of))~~ Washington State or elsewhere, or ~~((convicted civilly or criminally of))~~

(B) Civil or criminal conviction for operating ~~((such))~~ a health or personal care facility without a license, or ~~((having had the license to operate such a facility suspended or revoked, shall not be granted a license))~~

(C) Previous revocation or suspension of a license to operate a health or personal care facility.

(d) The department shall deny a license for reasons listed in subsections (2)(c)(ii) of this section unless ~~((to the satisfaction of the department, the individual))~~ an applicant affirmatively establishes clear, cogent, and convincing evidence of ability to operate ~~((the residential))~~ a center or treatment ~~((facility, for which the license is sought;))~~ home in full conformance with all applicable laws, rules and regulations.

(3) ~~((Visitation and examination of the residential))~~ Inspection of premises. Centers and treatment ~~((facility by))~~ homes shall permit the department to visit and examine the premises of centers and treatment homes annually and as necessary to ascertain compliance with chapter ~~((248-25 WAC and chapter))~~ 71.12 RCW ~~((shall occur as necessary and at least one time each twelve months))~~ and chapter 248-25 WAC.

(4) Denial, suspension, or revocation of license. ~~((Upon finding, as a result of an inspection, the facility has failed or refused to comply with the requirements of chapter 71.12 RCW and these rules and regulations;))~~

~~(a) Upon the ((department may, if the interests of the clients so demand;)) department's decision to deny, suspend, or revoke a license, the department shall issue a ((written notification)) letter to ((the)) an applicant or licensee ((giving notice of intent to deny a license)) stating the department is denying an application, or ((to suspend)) is suspending or ((revoke)) revoking a license ((thirty days after the date of mailing. The letter shall be followed by a)) because:~~

~~(i) Findings upon inspection reveal failure or refusal of a center or treatment home to comply with chapter 71.12 RCW and chapter 248-25 WAC; and~~

~~(ii) The criteria in WAC 248-25-010 (2)(b) are satisfied; and~~

~~(iii) The health, safety, or welfare of residents is endangered.~~

~~(b) The denial, suspension, or revocation letter ((provided the applicant or licensee does not within)) becomes effective thirty days ((from)) after the date of mailing ((of the department's notice of intent to reject, revoke or suspend the license, make written application to the department for a hearing. Upon receipt of such an application to the department, the department shall fix a time for such hearing and shall give the applicant or licensee a notice of the time fixed for such hearing. Procedures governing hearings under these regulations shall be in accord with procedures set out in chapter 248-08 WAC. All hearings conducted under these regulations shall be deemed to be contested cases within the meaning of)) unless the applicant or licensee makes a written request to the department for a hearing within thirty days of the date of mailing of the letter.~~

~~(c) The written request for a hearing may be made to the Office of Hearings, P.O. Box 2465, Olympia, Washington 98504-2465. When the request for hearing is mailed, it shall be treated as having been made on the date it was postmarked, provided it is received by the office of hearings properly addressed with no postage due.~~

~~(d) The procedures governing hearings are provided in chapter 34.04 RCW and chapter 10-08 WAC.~~

~~(5) Submission of plans and programs for centers. Centers shall submit the following ((shall be submitted)) with an application for license((- PROVIDED, HOWEVER, That when any of the required plans are)) unless already on file with the department ((through previous applications for license or construction approval, only plans for portions or changes not on file need to be submitted:)):~~

~~(a) A written description of activities and functions containing, at a minimum, information concerning services to be provided and operational methods to be used affecting the physical plant and facilities required by chapter 248-25 WAC;~~

~~(b) A plot plan showing street, driveways, water and sewage disposal systems, the location of buildings on the site, and grade elevations within ten feet of any building housing ((clients:)) residents;~~

~~((b)) (c) Floor plans of each building housing ((clients shall provide)) residents with the following information:~~

~~(i) Identification of each ((client's)) resident's sleeping room by use of a lettering or numbering system, or some equivalent mechanism of identification;~~

~~(ii) The usable square feet of floor space in each room;~~

~~(iii) The clear window glass area in each ((client's)) resident's sleeping room;~~

~~(iv) The height of the lowest portion of the ceiling in any ((client's)) resident's sleeping room; and~~

~~(v) The floor elevations referenced to the grade level.~~

~~(6) ((Posting of license. A license for the residential treatment facility shall be posted in a conspicuous place on the premises.~~

~~(7)) New construction for centers.~~

~~(a) Centers shall submit the following to the department for review when new construction is contemplated((- the following shall be submitted to the department for review):~~

~~(i) A written ((program)) description of activities and functions containing, at a minimum, information concerning services to be provided and operational methods to be used ((effecting)) affecting the ((extent of)) physical plant and facilities required by these regulations((-);~~

~~(ii) Duplicate sets of preliminary plans drawn to scale and including:~~

~~(A) A plot plan showing streets, driveways, the water and sewage disposal systems, grade and location of ((building(s))) building or buildings on the site; and~~

~~(B) The plans for each floor of the ((building(s))) building or buildings, existing and proposed, designating the functions of each room and showing all fixed equipment. ((The preliminary plans shall be accompanied by a)~~

~~(iii) A statement ((as to the)) about:~~

~~(A) Source of the water supply ((and));~~

~~(B) The method of sewage and garbage disposal; and~~

~~(C) A general description of construction and materials, including interior finishes.~~

~~(b) Licensees and applicants shall start construction ((shall not be started until)) only after department receipt and approval of:~~

~~(i) Specifications and duplicate sets of final plans ((f)) drawn to scale((- and specifications have been submitted to, and approved by, the department. Final plans and));~~

~~(ii) Specifications ((shall show)) showing complete details to ((be furnished to)) contractors for construction of buildings((-The)); and~~

~~(iii) Plans and specifications ((shall include)) including:~~

~~((f)) (A) Plot plans;~~

~~((f)) (B) Plans for each ((building)) floor of ((the building(s))) each building designating the function of each room and showing all fixed equipment and the planned location of beds and other furniture in ((clients')) residents' sleeping rooms;~~

~~((f)) (C) Interior and exterior elevations, building sections, and construction details;~~

~~((f)) (D) A schedule of floor, wall and ceiling finishes, and the types and sizes of doors and windows;~~

~~((f)) (E) Plumbing, heating, ventilation, ((and)) electrical systems, fire safety; and~~

~~((f)) (F) Specifications fully describing workmanship and finishes.~~

~~(c) Centers shall make adequate provisions ((shall be made)) for safety and comfort of ((clients)) residents as construction work takes place in or near occupied areas.~~

~~(d) Centers shall:~~

~~(i) Ensure all construction ((shall)) takes place in accordance with ((the)) department approved final plans and specifications((-The department shall be consulted prior to making any changes from the approved plans and specifications. When indicated by the nature or extent for proposed changes, the department may require the submission of modified plans or addenda for review prior to considering proposed change(s) for approval. Only changes approved by the department may be incorporated into a construction project. In all cases, modified plans or addenda on changes incorporated into the construction project shall be submitted for the department's file on the project even though the modified plans or addenda were not required to be submitted prior to approval.~~

~~(8) The department may, in the department's discretion, exempt an adult residential treatment facility pursuant to the rules herein. (9));~~

~~(ii) Consult with the department prior to making any changes from the approved plans and specifications;~~

~~(iii) Incorporate only department-approved changes into a construction project;~~

~~(iv) Submit modified plans or addenda on changes incorporated into a construction project to the department file on the project even though submission of the modified plans or addenda was not required by the department prior to approval.~~

~~(e) The department may require submission of modified plans or addenda for review prior to considering a proposed change or changes for approval.~~

~~(7) Compliance with other regulations.~~

~~(a) Centers shall comply with rules and regulations adopted by the Washington state fire marshal under provisions of RCW 71.12.485 ((which are found in Title 212 WAC apply)).~~

~~(b) ((If there is no local plumbing code, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, 1979 Edition, shall be followed)) Centers involved in construction shall comply with the state building code as required in chapter 19.27 RCW.~~

~~(c) Center compliance with ((these regulations)) chapter 248-25 WAC does not exempt ((a residential treatment facility)) it from compliance with codes under other state authorities or local ((and)) jurisdictions, such as state electrical codes or local zoning, building, and plumbing codes.~~

~~((f)) (8) Posting of license. Centers shall post the license in a conspicuous place on the premises.~~

~~(9) Transfer of ownership. ((The ownership of a residential treatment facility shall not be transferred or, if a corporation, a majority of its stock sold, until the transferee has been notified by the department the application for a license has been approved:)) A center shall transfer ownership or, if a corporation, sell a majority of stock, only after the transferee has received department approval of the license application and reported change ((m)) of center administrator ((shall be reported to the department)).~~

~~(10) Exemptions.~~

(a) The secretary or designee may exempt a center or treatment home from compliance with specified subsections of these regulations when the department ascertains such exemptions may be made in an individual case without jeopardizing the safety or health of the residents in a particular center or treatment home.

(b) Centers and treatment homes shall keep all written exemptions granted by the department pursuant to chapter 248-25 WAC on file in the center or treatment home.

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 1858, filed 8/6/82)

WAC 248-25-020 ADMINISTRATION—ADULT RESIDENTIAL REHABILITATION CENTER. (1) Governing body.

(a) (The residential treatment facility) Each center shall have a governing body (to establish and adopt personnel policies, written policies for the admission, care, safety, and treatment of clients, rules and regulations for the responsible administrative and clinical staffs).

(b) The governing body of the center shall:

(i) Be responsible for the provision of personnel, facilities, equipment, supplies, and other services necessary to meet the needs of (clients) residents;

(ii) Appoint an administrator responsible for implementing the policies adopted by the governing body (The governing body shall); and

(iii) Establish and maintain a current, written organizational plan, including all positions and delineating responsibilities, authority, and relation of positions within the (facility) center.

(2) Personnel.

(a) (There) Centers shall (be) provide:

(i) Sufficient qualified personnel to provide the services needed by the (clients) residents and to maintain the (residential treatment facility) (b) center;

(ii) Written, current job descriptions for each position classification (shall be written and current. (c) There shall be);

(iii) A personnel record system (and);

(iv) A current personnel record for each employee including:

(A) Application for employment,

(B) Verification of education or training when required,

(C) A record or verification of a valid, current license for any employee requiring licensure, and

(D) An annually documented performance evaluation.

(v) A planned, supervised, and documented orientation (shall be provided) for each new employee (c);

(vi) Ongoing in-service education affording each employee the opportunity to maintain and update competencies needed to perform assigned (duties) tasks and responsibilities (c), to include cardiopulmonary resuscitation (training and review shall be provided) when appropriate.

(b) Centers using volunteer services and activities (when provided,) shall (be coordinated):

(i) Ensure coordination by a qualified member of the (facility) center staff (c);

(ii) Conduct appropriate screening (documented);

(iii) Document orientation (c) and training provided for each volunteer in accordance with the job to be performed (c) (ii) There shall be); and

(iv) Provide supervision of volunteers by qualified staff.

(3) Research. When research is proposed or conducted directly involving (clients) residents, (a multidisciplinary committee) the center shall ensure:

(a) Review, (monitor) monitoring, and (approve or disapprove any) approval of the research project (in order) by a multidisciplinary committee to protect the rights and safety of (clients) residents; and

(b) Inclusion on the multidisciplinary committee of at least:

(i) One licensed mental health professional not employed by the center; and

(ii) A resident or resident advocate not employed by the center. (The committee shall have)

(c) The right and responsibility of the committee to modify or discontinue research.

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-030 ((CLIENT)) RESIDENT CARE SERVICES IN ADULT RESIDENTIAL REHABILITATION CENTERS OR PRIVATE ADULT TREATMENT ((FACILITIES)) HOMES. (1) ((The residential treatment facility)) Policies and procedures. Centers shall ((have)) establish and follow written policies regarding admission criteria and treatment methods ((The)) ensuring:

(a) Admission of ((clients shall be)) residents in keeping with stated policies and ((shall be)) limited to ((clients) residents for whom ((the facility)) a center is qualified by staff, services, and equipment, to give adequate care (c);

(b) Acceptance of a psychiatrically impaired ((client shall be)) resident based upon ((am)) prior assessment by a mental health professional ((under)) as defined in chapter 71.05 RCW or by a community mental health program under chapter 71.24 RCW.

(2) Resident assessments. Centers shall require documentation of the assessment ((shall be documented and shall)) of each psychiatrically impaired resident by a mental health professional or program to establish ((the following):

(a) ((A client requires treatment)) Resident requirements are appropriate to the intensity and restrictions of care available and provided ((by the program));

(b) ((The treatment)) Resident services required can be appropriately provided by the ((program(s)) center or treatment home program or program ((component(s):) components; and

(c) The ((client does not represent an imminent danger to others and does not have)) resident is free of a physical condition requiring medical or nursing care available only in a hospital.

(3) ((Clients)) Board and domiciliary care. Centers may admit and provide services for residents requiring only board and domiciliary care ((may be admitted and reside in the adult residential treatment facility)).

(4) Resident admission limitations. Unless ((the facility is)) excepted in writing by the Washington state fire marshal and the department, centers and treatment homes shall prohibit admission ((criteria shall be used to screen out)) and retention of individuals ((m) who:

(a) Need ((of)) physical restraints,

(b) Are not ambulatory, ((or lacking))

(c) Lack adequate cognitive functioning to enable response to a fire alarm, or

(d) Are unable to evacuate the premises in an emergency without assistance.

(5) Individual treatment and discharge planning.

(a) Centers and treatment homes shall ensure an initial assessment of each ((psychiatrically impaired client shall occur)) resident within seventy-two hours of admission with development of a provisional individualized treatment plan (ITP) for each psychiatrically impaired resident.

(b) ((The)) A multidisciplinary treatment team shall develop ((an individualized treatment plan)) a written ITP for each ((client) resident within fourteen days of admission ((to the facility)).

(i) The ((individualized treatment plan shall be written and interpreted)) center or treatment home shall provide interpretation of the ITP to ((client) resident care ((personnel)) staff. ((When possible, the client will))

(ii) Each resident and/or an individual selected or chosen by the resident shall be provided an opportunity to participate in development of the ((plan)) ITP.

(iii) ((There shall be implementation of)) The center or treatment home and the multidisciplinary treatment team shall implement the ((individualized treatment-rehabilitation plan by the multidisciplinary team)) ITP with written review and evaluation as necessary and at least once each thirty days (c) with:

(A) Modifications in the ((treatment plan shall be made)) ITP as necessary (c); and

(B) Implementation and review ((shall be)) evidenced in the clinical record.

(iii) The plan shall include a written discharge plan developed and implemented by the multidisciplinary team (c)

(iv) Centers and treatment homes shall include the ((plan shall be included)) ITP in the clinical record.

(6) Treatment and rehabilitation delivery services. Centers and treatment homes shall develop a written plan ((shall be developed)) describing the organization of ((clinical)) services. Consistent with the plan, policies and procedures shall address the following:

(a) ~~((Medical services. (i))) Requirements for physician authentication of a completed comprehensive health assessment and medical history ((shall be completed and recorded by a physician)) within ((seventy-two hours)) three working days after admission unless a comprehensive health assessment or review performed within the previous thirty days is available upon admission. ((- (ii) A complete neurological evaluation shall be completed only when indicated. (iii) A);~~

(b) ~~Arrangements for physician ((member)) care of ((the clinical staff shall be responsible for the care of)) any resident with a medical condition present ((during residential treatment. (iv)));~~

(c) ~~Signing of orders for medical treatment ((shall be signed)) by a physician or ((by another)) other authorized practitioner acting within the scope of Washington state statutes defining practice. ((- (v) There shall be a physician on call at all times to advise regarding emergency medical problems.));~~

(d) ~~Provisions ((shall be made)) for emergency medical services ((when needed. (vi)));~~

(e) ~~Completion of a psychiatric evaluation ((shall be completed and documented)) for each psychiatrically impaired resident with authentication by a psychiatrist within thirty days prior to or ((seventy-two hours)) three working days following admission. ((- (b) Nursing service. There shall be));~~

(f) ~~Requirements for a registered nurse, with training and experience in working with psychiatrically impaired adults ((- on staff as a full-time)) as follows:~~

(i) ~~Employed full or part-time ((employee)) or under contract or written agreement. ((- The nurse shall be)); and~~

(ii) ~~Responsible for all nursing functions.~~

~~((c) Psychologists, social workers, psychiatric nurses.)) (g) Access to and availability of mental health professionals, occupational therapists, recreational therapists, LPN, rehabilitation specialists, and para-professionals with experience in working with psychiatrically impaired adults ((shall be available)), as necessary to develop, integrate, and implement the ((individualized treatment plan)) ITP.~~

~~((d)) (h) Rehabilitation services under long-term care ((:)) to include:~~

(i) ~~((There shall be)) An educational and vocational assessment of each ((client)) resident with appropriate educational and vocational programs developed and implemented or arranged on the basis of the assessment ((:)); and~~

(ii) ~~((Services in the)) Training in independent living skills ((of daily living shall be)) provided by qualified persons as necessary to meet the needs of the ((clients)) residents.~~

~~((c) Food and dietary services:~~

(i) ~~Food and dietary services shall be managed by a person knowledgeable in food service.~~

(ii) ~~Dietary service shall incorporate the services of a dietitian in order to meet the individual nutritional needs of clients.~~

(iii) ~~All menus shall be written at least one week in advance, approved by a dietitian, and retained for six months.~~

(iv) ~~There shall be a client-specific physician order for therapeutic diets served to clients. Therapeutic diets shall be prepared and served as prescribed.~~

(v) ~~Meals and nourishment shall provide a well-balanced diet sufficient in quality, quantity, and variety to meet the nutritional needs of clients. Unless contraindicated, the "Recommended Dietary Allowances," Ninth Edition, 1980, of the food and nutrition board of the national research council adjusted for age, sex, and activity, shall be used.~~

(vi) ~~Food service sanitation shall be governed by chapter 248-84 WAC.~~

~~(7) Other client safety and care requirements:~~

(a) ~~Disciplinary policies and practices shall be stated in writing:~~

(i) ~~Discipline shall be fair, reasonable, consistent, and related to the behavior of the clients. Discipline, when needed, shall be consistent with the individualized treatment plan.~~

(ii) ~~Abusive, cruel, hazardous, frightening, or humiliating disciplinary practices shall not be used. Seclusion and restraint shall not be used as punitive measures. Corporal punishment shall not be used.~~

(iii) ~~Disciplinary measures shall be documented in the clinical record.~~

(b) ~~Assault, abuse, and neglect. Clients shall be protected from assault, abuse, and neglect. Suspected or alleged incidents of nonaccidental injury, sexual abuse, assault, cruelty, or neglect shall be reported to the department.~~

(c) ~~Allowances, earnings, and expenditures shall be accounted for by the facility. When a client is discharged, he or she may be permitted to~~

take the balance of his or her money, or be fully informed about the transfer of his or her money to another facility or other transfer as permitted by state or federal law. The client shall be informed of any responsibility for the cost of care and treatment under the law or regulations:

(d) ~~Clients shall not be used to carry the responsibility for basic housekeeping and maintenance of the facility and equipment. Assigned tasks may be performed insofar as the tasks are appropriate and are part of the individualized treatment plan. Work assignments shall be adequately supervised and documented as part of the treatment program. Work assignment shall be appropriate to the age, physical, and mental condition of the client.~~

(e) ~~Written policy statements and procedures shall describe client rights as specified in WAC 275-55-211 and 275-55-241.~~

(f) ~~Current written policy and orders shall be signed by a physician to guide the action of facility personnel when medical emergencies or a threat to life arise and the physician is not present.~~

(i) ~~Medical policies shall be reviewed as needed and at least one time each two years and approved in writing by representatives of the medical, nursing, and administrative staff.~~

(ii) ~~There shall be a current transfer agreement with an acute care general hospital. Medical and related data shall be transmitted with the client in the event of a transfer.~~

(g) ~~Written policies and procedures shall address notification of legal guardian or next-of-kin in the event of a serious change in the client's condition, transfer of client to another facility, elopement, death, or when unusual circumstances warrant.~~

(h) ~~Written policies and procedures addressing safety precautions shall include:~~

(i) ~~Smoking by personnel, clients, visitors, and others within the facility.~~

(ii) ~~Provision for immediate emergency access to sleeping rooms, toilets, showers, bathrooms, or any other rooms occupied by clients.~~

(iii) ~~Use and monitoring of seclusion rooms and restraints in accordance with WAC 275-55-263 (2)(c).~~

(iv) ~~Availability of access to emergency supplies and equipment to include airways, and other equipment as identified in the emergency medical policies.~~

(v) ~~Summoning of internal or external resource agencies or persons (e.g., poison center, fire department, police):~~

(vi) ~~Systems for routine preventive maintenance with documentation of the plan and dates of inspection.~~

(vii) ~~Fire and disaster plans including a documentation process and evidence of rehearsal on a regular basis.~~

(viii) ~~Immediate actions or behaviors of facility staff when client behavior indicates the client is assaultive, out-of-control or self-destructive. There shall be documentation staff rehearsals occur on a regular basis.~~

(i) ~~There shall be written policies and procedures governing actions to be taken following any accident or incident considered harmful or injurious to the client which shall include documentation in the clinical record.~~

(j) ~~Policies concerning transportation of clients shall include consideration of the following:~~

(i) ~~When transportation is provided for clients in a vehicle owned by the facility, the vehicle shall be in safe operating condition as evidenced by preventive maintenance records.~~

(ii) ~~Authorization of all drivers of vehicles transporting clients by the administration of the facility. Drivers shall possess a current driver's license.~~

(iii) ~~Observation of maximum safe vehicle driving capacity. Seat belts or other safety devices shall be provided for and used by each passenger.~~

(iv) ~~Conditions allowing clients to be transported in nonfacility-owned vehicles.~~

(k) ~~At least one staff member with current first aid and cardiopulmonary resuscitation training shall be on duty at all times.)~~

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.

NEW SECTION

WAC 248-25-035 GENERAL RESIDENT SAFETY AND CARE—POLICIES, PROCEDURES, PRACTICES. (1) Centers and

treatment homes shall state disciplinary policy and practices in writing ensuring any disciplinary practice used is:

(a) Fair, reasonable, consistent, and related to the mental status and behavior of a resident;

(b) Consistent with the ITP;

(c) Not abusive, cruel, hazardous, frightening, or humiliating; and

(d) Documented in the clinical record.

(2) Centers and treatment homes shall prohibit:

(a) Use of seclusion and restraint as punitive measures; and

(b) Use of corporal punishment.

(3) Centers and treatment homes shall:

(a) Protect residents from assault, abuse, and neglect; and

(b) Report suspected or alleged incidents to the department including:

(i) Nonaccidental injury,

(ii) Sexual abuse,

(iii) Assault,

(iv) Cruelty, and

(v) Neglect.

(4) Centers and treatment homes shall account for resident allowances, earnings, and expenditures including:

(a) Permitting a discharged resident to take the balance of his or her money; or

(b) Fully informing a resident when his or her money is transferred to another facility or organization as permitted by state or federal law; and

(c) Informing each resident of any responsibility for cost of care and treatment per law or rule.

(5) Centers and treatment homes shall allow residents to work on the premises only when:

(a) Assigned tasks are appropriate to resident age, physical and mental condition;

(b) Assignments are described in the ITP;

(c) Resident work is supervised and part of a treatment program;

(d) Center or treatment home staff retain responsibility for basic housekeeping, maintenance of equipment, and maintenance of the physical environment; and

(e) Documentation of resident work occurs.

(6) Centers and treatment homes shall establish written policy and procedures to:

(a) Describe resident rights consistent with chapter 275-56 WAC;

(b) Require current written policy and signed physician orders guiding actions of staff when medical emergencies or threats to life occur including:

(i) Policy review as needed and at least once each two years;

(ii) Written approval of policies by representatives of medical, nursing, and administrative staff;

(iii) Maintenance of current transfer agreements with one or more acute care hospitals; and

(iv) Provision for transmitting medical and related resident information with a resident in event of transfer for medical or other treatment and care.

(c) Describe circumstances for notification of legal guardian or next-of-kin in event of:

(i) Serious change in resident condition;

(ii) Resident death;

(iii) Resident escape or unauthorized departure;

(iv) Transfer of resident to another facility; and

(v) Other unusual circumstances.

(d) Establish requirements consistent with chapter 70.160 RCW Washington Clean Indoor Air Act if residents, staff, or visitors are permitted to smoke in the center or treatment home;

(e) Provide for immediate emergency access to sleeping rooms, toilets, showers, bathrooms, or other rooms occupied by residents;

(f) Maintain resident monitoring and safety consistent with chapter 275-55 WAC if seclusion rooms or restraints are used;

(g) Provide for availability and access to emergency supplies and equipment identified in emergency medical policies;

(h) Provide guidance for staff in:

(i) Summoning of internal and external assistance, e.g., poison center, police, fire department;

(ii) Immediate actions required when resident behavior is violent or assaultive;

(iii) Regular documented rehearsals of safe, effective staff action when a resident is violent or assaultive;

(iv) Regular documented rehearsal of a fire and disaster plan; and

(v) Actions and documentation in clinical record following accidents(;) or incidents considered harmful or injurious to a resident.

(i) Require the presence of one or more on-duty staff with current training in first aid and cardiopulmonary resuscitation;

(j) Encourage safe transportation of residents including:

(i) Assuring center-owned vehicles used for resident transport are in safe operating condition with records of preventive maintenance;

(ii) Providing a center authorization including a requirement for a current driver's license for each driver of a center-owned vehicle transporting residents;

(iii) Mandatory use of seat belts or other safety devices;

(iv) Observation of maximum vehicle passenger capacity; and

(v) Description of circumstances when residents are transported in vehicles not owned or operated by the center.

(k) Establish systems for routine preventive maintenance, documentation of the plan, and documentation of dates inspected.

Reviser's note: The unnecessary doubling in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-040 PHARMACEUTICAL SERVICES IN ADULT RESIDENTIAL ((TREATMENT FACILITIES)) REHABILITATION CENTERS. (1) ((The facility)) Each center shall have an agreement with a pharmacist to advise ((the facility)) on matters relating to the practice of pharmacy, drug utilization, control, and accountability.

(2) Centers shall obtain written approval of a physician and pharmacist for written policies and procedures ((shall be approved by a physician and pharmacist)) addressing ((the)):

(a) Procuring,

(b) Prescribing,

(c) Administering,

(d) Dispensing,

(e) Storage,

(f) Transcription of orders,

(g) Use of standing orders,

(h) Disposal of drugs,

(i) Self-administration of medication, and

(j) Control or disposal of drugs brought into the ((facility)) center by ((clients;)) residents and/or recording of drug administration in the clinical record.

(3) Centers shall require and ensure:

(a) Written orders ((shall be)) signed by a physician or other legally authorized practitioner acting within the scope of his or her license, for all medications administered to ((clients;)) residents;

(b) An organized system ((shall be instituted)) to ((ensure)) maintain accuracy in receiving, transcribing, and implementing orders for administration of medications(;;);

((~~(b) Drugs shall be dispensed~~)) (c) Drug dispensing only by persons licensed to dispense drugs(;;);

((~~(d) Drugs shall be administered~~)) (d) Drug administering only by persons licensed to administer drugs(;;);

((~~(e) Drugs brought into the ((facility)) center for ((client)) resident use while in the ((facility shall be)) center are specifically ordered by a physician(;;);~~))

((~~(The facility is responsible for the)~~)) (f) Control and appropriate use of all drugs administered or self-administered within the ((facility;)) center;

((~~(d)~~)) (g) Provisions ((shall be made)) for procurement, drug files, labeling and storage of medications, drugs, and chemicals(;;);

((~~(h)~~)) (h) Procurement of drugs ordered or prescribed for a specific ((client shall be procured)) resident by individual prescription only(;;);

((~~(i)~~)) (i) The services of ((the)) a pharmacist and ((the)) pharmacy ((shall be such)) so that medications, supplies, and individual prescriptions are provided without undue delay(;;);

((~~(iii)~~)) (j) Medication containers within the ((facility shall be)) center are clearly and legibly labeled with the medication name (generic and/or trade), strength, and expiration date (if available)(;;);

((~~(iv)~~)) (k) Medications, poisons, and chemicals kept anywhere in the ((facility shall be)) center are:

(i) Plainly labeled and stored in a specifically designated, secure, well-illuminated cabinet, closet, or ((store room, and)) storeroom;

(ii) Made accessible only to authorized persons(;;); and

~~(iii) Maintained so that external medications ((shall be)) are separated from internal medications.~~

~~((~~+~~)) (1) Maintenance of appropriate warning or poison labels and separate storage for poisonous external chemicals, caustic materials, and drugs ((shall show appropriate warning or poison labels and shall be stored separately from all other drugs)).~~

~~((~~3~~) The facility) (4) Centers shall ((have)) maintain a current drug reference readily available for use by ((clinical)) staff and treatment team members.~~

NEW SECTION

WAC 248-25-045 FOOD STORAGE—PREPARATION—SERVICE. (1) Centers shall maintain food service facilities and practices complying with chapter 248-84 WAC.

(2) Centers and treatment homes shall provide:

(a) A minimum of three meals in each twenty-four hour period;

(b) Evidence of written approval by the department when a specific request for fewer than three meals per twenty-four hour period is granted;

(c) A maximum time interval between the evening meal and breakfast of fourteen hours unless a snack contributing to the daily nutrient total is served or made available to all residents between the evening meal and breakfast;

(d) Dated, written menus which:

(i) Are written at least one week in advance,

(ii) Are retained six months, and

(iii) Provide a variety of foods with cycle duration of at least three weeks before repeating.

(e) Substitutions for food on menus of comparable nutrient value;

(f) Palatable, attractively served diets, meals, and nourishments sufficient in quality, quantity, and variety to meet the recommended dietary allowances of the food and nutrition board, national research council, 1980 edition; and

(g) A record of all food and snacks served and contributing to nutritional requirements.

(3) Centers and treatment homes shall prepare and serve:

(a) Resident specific modified or therapeutic diets when prescribed and as prescribed by a physician with menus approved by a dietitian; and

(b) Only those nutrient concentrates and supplements prescribed in writing by a physician.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-050 INFECTION CONTROL IN ADULT RESIDENTIAL ~~((TREATMENT FACILITIES))~~ REHABILITATION CENTERS. (1) ~~((There))~~ Centers shall ~~((be))~~ establish written policies and procedures addressing infection control and isolation of ~~((clients))~~ residents (should isolation be necessary and medically appropriate for an infectious condition).

(2) Centers shall report communicable disease ~~((shall be reported))~~ in accordance with ~~((WAC))~~ chapter 248-100 ~~((=075 and 248-100-080 as now or hereafter amended))~~ WAC.

(3) ~~((There))~~ Centers shall ~~((be))~~ maintain:

(a) A current system for reporting, investigating, and reviewing infections among ~~((clients))~~ residents and personnel~~((:));~~ and ~~((for maintenance of))~~

(b) A system for keeping records on such infections.

(4) ~~((Upon employment, each person shall have or provide documented evidence of a tuberculin skin test by the Mantoux method, unless medically contraindicated. When the skin test is negative (less than ten millimeters in duration read at forty-eight to seventy-two hours), no further tuberculin skin test shall be required. A positive skin test shall consist of ten millimeters of induration, or greater, read at forty-eight to seventy-two hours. Positive reactors shall have a chest x-ray within ninety days of the first day of employment and shall be evaluated for an appropriate course of treatment (preventive or curative). Exceptions and specific requirements are as follows:~~

(a) Persons with positive skin tests having completed a recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from further testing and/or chest x-rays:

~~((b) A record of test results, x-rays or exemptions to such shall be kept by the facility. (5))~~ Centers shall require off-duty status or restrict resident contact where an employee~~((s-with))~~ is known to have a communicable disease~~((s))~~ in an infectious stage ~~((shall not be on duty))~~ and is likely to be spread by casual contact.

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-060 CLINICAL RECORDS. (1) ~~((The residential treatment facility))~~ Centers shall ~~((have))~~ maintain and retain:

(A) A well-defined clinical record system, adequate and experienced staff~~((:));~~

(B) Adequate facilities, equipment, and supplies necessary to the development, maintenance, security, control, retrieval, analysis, use, and preservation of ~~((client))~~ resident care data~~((:));~~ and

(C) A person demonstrating competency and experience or training in clinical record administration ~~((shall be))~~ responsible for the clinical record system.

(2) ~~((The client))~~ Centers and treatment homes shall document and maintain individual resident records and a record system ~~((shall be documented and maintained))~~ in accordance with recognized principles of clinical record management to include:

(a) Ready access for appropriate members of staff~~((:));~~

(b) Systematic methods for identifying the record of each resident~~((:));~~ and

(c) Legible, dated, authenticated entries (ink, typewritten, computer terminal, or equivalent) on all diagnostic and treatment procedures and other clinical events.

(3) ~~((The residential treatment facility))~~ Centers shall have current policies and procedures related to the clinical record system including ~~((the following))~~:

(a) ~~((The establishment of the))~~ An established format and documentation expectations ~~((of))~~ for the clinical record ~~((for))~~ of each ~~((client:))~~ resident;

(b) Control of access to and release of data in clinical records ~~((-Policies shall address))~~ including confidentiality of information contained in records and release of information in accordance with ~~((RCW 71.05.390:))~~

(4) An adequate clinical record shall be maintained for each client and be readily accessible to members of the treatment team. Each entry in the clinical record shall be legible, dated, and authenticated:

(5) A systematic method for identifying the clinical record of each client shall be maintained:

(6) Entries in the clinical record shall be made on all diagnostic and treatment procedures and other clinical events. Entries shall be in ink, typewritten, or on a computer terminal, or equivalent:

(7) Psychiatric diagnosis, abbreviations, and terminology shall be consistent with the most recent edition of the "American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders," 1980. Physical diagnosis, abbreviations, and terminology shall be consistent with "International Classification of Disease," Ninth Revision; Volumes I and II, September 1980:

(8) Clinical records shall include identifying information, assessments by the multidisciplinary team, regular progress notes by members of the multidisciplinary team, individualized treatment plans, and a discharge summary:

(9) There shall be a master client index.

(10) Procedures related to) chapter 71.05 RCW;

(c) Retention, preservation, and final disposal of clinical records and other ~~((client))~~ resident care data ~~((shall include the following))~~ to ensure:

~~((~~+~~))~~ (i) Retention and preservation of:

(A) Each ~~((client's))~~ resident's clinical record ~~((shall be retained and preserved))~~ for a period of no less than five years, or for five years following the ~~((client's))~~ resident's most recent discharge, whichever is the longer period of time~~((:));~~

~~((~~+~~))~~ (B) A complete discharge summary, authenticated by ~~((~~+~~))~~ an appropriate member of the ~~((clinical))~~ staff, ~~((and reports of tests related to the psychiatric condition of each client shall be retained and preserved))~~ for a period of no less than ten years or ~~((for a period of))~~ no less than ten years following the ~~((client's))~~ resident's most recent discharge, whichever is the longer period of time~~((:));~~ and

(C) Reports of tests related to the psychiatric condition of each resident for a period of no less than ten years or no less than ten years following the resident's most recent discharge, whichever is the longer period of time.

~~((~~+~~))~~ (ii) Final disposal of any ~~((client))~~ resident clinical ~~((record(s)))~~ record, indices, or other reports permitting identification

of the individual shall be accomplished so retrieval and subsequent use of data contained therein are impossible(;;);

~~((d)) (iii) In the event of transfer of ownership of the ((residential)) center or treatment ((facility)) home, ((client)) resident clinical records, indices, and reports ((shall)) remain in the ((facility and shall be)) center or treatment home, retained and preserved by the new operator ((of the facility)) in accordance with ((subsections (10)(a), (b), (c), (d), and (e) of)) this section((-e));~~

~~(iv) Center or treatment home arrangements for preservation of clinical records, reports, indices, and resident data in accordance with this section if the ((residential)) center or treatment ((facility)) home ceases operation(, the facility shall make arrangements for preservation of the clinical records, reports, indices, and client data in accordance with subsections (10)(a), (b), and (c) of this section. The plans for such arrangements shall have been approved by the); and~~

~~(v) Department approval of plans for preservation and retention of records prior to cessation of operation.~~

~~(d) Psychiatric diagnoses, abbreviations, and terminology consistent with the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders," Third Edition, Revised (DSM-III-R), physical diagnoses, abbreviations, and terminology consistent with "International Classification of Diseases," Ninth Revision, Clinical Modification (ICD-9-CM);~~

~~(e) Clinical records identifying information, assessments by the multidisciplinary treatment team, regular progress notes by members of the multidisciplinary treatment team, individualized treatment plans, final evaluation, and a discharge summary;~~

~~(f) A master resident index;~~

~~(g) Identifying information;~~

~~(h) Assessments and regular progress notes by the multidisciplinary treatment team;~~

~~(i) Individualized treatment plans; and~~

~~(j) Final evaluation and discharge summary.~~

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 1858, filed 8/6/82)

WAC 248-25-070 PHYSICAL ENVIRONMENT IN ADULT RESIDENTIAL ((TREATMENT FACILITIES)) REHABILITATION CENTERS. (1) ~~((The residential treatment facility))~~ Each center shall provide a safe, clean environment for ~~((clients))~~ residents, staff, and visitors.

~~((At least the))~~ Centers shall provide:

~~(a) A ground floor ((shall be)) accessible to the physically handicapped(;;); and~~

~~(b) Program activity areas and sleeping quarters for any physically handicapped ((clients shall be)) residents on floors meeting applicable standards.~~

~~((Clients'))~~ Residents' sleeping rooms.

~~(a) ((Each sleeping room)) Centers shall ((be)) provide sleeping rooms which:~~

~~(i) Are directly accessible from a corridor or common-use activity room or an area for ((clients. (b) Sleeping rooms shall be)) residents;~~

~~(ii) Are outside rooms with a clear glass window area of approximately one-tenth of the usable floor area(;;);~~

~~(iii) Have windows above the ground floor level ((shall be)) appropriately screened or ((of)) have a security ((type)) window;~~

~~(iv) Provide a minimum of eighty square feet of usable floor space in a single-bed room;~~

~~(v) Provide no less than seventy square feet of usable floor area per bed in multi-bed rooms;~~

~~(vi) Accommodate no more than four residents;~~

~~(vii) Provide no less than seven and one-half feet of ceiling height over the required floor area;~~

~~(viii) Provide space so beds do not interfere with the entrance, exit, or traffic flow within the room;~~

~~(ix) Have dimensions and conformation allowing placement of beds three feet apart; and~~

~~(x) Have room furnishings maintained in a clean, safe condition.~~

~~(b) Centers shall prohibit use of any room more than three feet, six inches below grade as a resident sleeping room.~~

~~(c) ((No room more than three feet, six inches below grade shall be used for the housing of clients. There shall be a minimum of eighty~~

~~square feet of usable floor space in a single bedroom and multient rooms shall provide no less than seventy square feet of floor area per bed. The maximum capacity of a sleeping room shall be four clients. There shall not be less than seven and one-half feet of ceiling height over the required floor area.~~

~~((d)) Centers shall provide:~~

~~(i) Visual privacy ((from other clients shall be provided)) for each resident as needed((-Visual privacy)) and may ((be achieved)) achieve this through a program assuring privacy in toileting, bathing, showering, and dressing(;~~

~~((c) Each client shall be provided);~~

~~(ii) An enclosed space suitable for hanging garments and storage of personal belongings for each resident within or convenient to his or her room((-Provision for)); and~~

~~(iii) Secure storage of ((client)) resident valuables in the room or elsewhere ((shall be provided)).~~

~~((ff)) (d) Centers shall provide each ((client shall have)) resident access to his or her room ((except when contraindicated by determination of staff)) with the following exceptions:~~

~~(i) If appropriate, center rules may specify times when rooms are unavailable; and/or~~

~~(ii) An ITP may specify restrictions on use of a room.~~

~~((gg)) (e) Centers shall provide a bed for each ((client shall be provided a bed)) resident which is:~~

~~(i) At least thirty-six inches wide or appropriate to the special needs and size of the ((client;)) resident; and~~

~~(ii) Provided with a clean, cleanable, firm mattress(;;) and a clean, cleanable, or disposable pillow.~~

~~((hh) Room furnishings shall be provided and maintained in a clean and safe condition.~~

~~(i) Client beds shall be spaced so the beds do not interfere with the entrance, exit, or traffic flow within the client's room. Client rooms shall be of a dimension and conformation allowing not less than three feet between beds.))~~

~~(4) Centers shall ensure that each ((client)) resident occupied floor ((of the facility shall)) or level provides:~~

~~(a) One toilet and sink for each eight ((clients)) residents or any fraction thereof((-There shall be one));~~

~~(b) A bathing facility for each twelve ((clients)) residents or fraction thereof((-If there are more than five clients, separate toilet and bathing facilities for each sex are required. Privacy shall be assured)); and~~

~~(c) Arrangements for privacy in toilets and bathing facilities.~~

~~(5) Centers shall provide:~~

~~(a) Adequate lighting ((shall be provided)) in all areas ((of the residential treatment facility));~~

~~((aa)) (b) An adequate number of electrical outlets ((shall be provided)) to permit use of electrical fixtures appropriate to the needs of residents and consistent with the program(;;);~~

~~((bb)) (c) General lighting ((shall be provided)) for sleeping rooms((-There shall be)) with an electrical wall switch located at the door of each sleeping room to control one built-in light fixture within the room((-c)); and~~

~~(d) Emergency lighting equipment such as flashlights or battery-operated lamps ((shall be)) available and maintained in operating condition.~~

~~(6) Ventilation.~~

~~(a) Centers shall provide ventilation of all rooms used by ((clients)) residents or personnel ((shall be)) sufficient to remove objectionable odors, excessive heat, or condensation.~~

~~(b) Centers shall provide appropriate vents in inside rooms, including toilets, bathrooms, and other rooms where excessive moisture, odors, or contaminants originate((-shall be appropriately vented)).~~

~~(7) ((There shall be)) Centers shall provide:~~

~~(a) An adequate supply of hot and cold running water under pressure conforming with standards of the state board of health, chapter 248-54 WAC(;;);~~

~~((a) The)) (b) Hot water temperature at bathing fixtures ((used by the clients shall be automatically regulated and shall)) not to exceed one hundred twenty degrees Fahrenheit(;;);~~

~~((b) There shall be)) (c) Hot water at a temperature of one hundred forty degrees Fahrenheit available for laundry equipment ((and dishwashing)); and~~

~~((c) There shall be)) (d) Devices to prevent back-flow into the water supply system from fixtures where extension hoses or other cross connections may be used.~~

~~(8) Linen and laundry. Centers shall provide:~~

(a) An adequate storage area and supply of clean linen, washcloths, and towels (~~(shall be)~~) available for (~~(client)~~) resident use(~~(:)~~);

(b) Availability of at least one laundry room with washer and dryer located in an area separated from the kitchen and dining area (~~(shall be available:)~~); and

(c) Well-ventilated soiled laundry or linen storage and sorting areas (~~(shall be in a well-ventilated area)~~) physically separated from the clean linen handling area, the kitchen, and the eating areas.

(9) (~~(Within the facility:)~~) Centers shall provide at least one private area (~~(shall be provided)~~) within the center for visitation of (~~(clients)~~) residents and guests.

(10) Centers shall provide an adequate number of therapy and examination rooms (~~(shall be available)~~) for (~~(group and individual therapy:)~~);

(a) (~~(The rooms shall be enclosed and)~~) Group and individual therapy reasonably sound-proofed (~~(as necessary)~~) to maintain confidentiality(~~(:)~~);

(b) (~~(If)~~) Seclusion or maximum security (~~(rooms are)~~) if required by a program, (~~(at least one seclusion room intended for short-term occupancy, with direct supervision by staff, shall be available or immediately accessible in a hospital or other facility:)~~) unless immediately accessible in a hospital, with each room:

(i) (~~(Seclusion rooms and furnishings shall be designed to provide maximum security and safety for clients:)~~) Under direct staff supervision;

(ii) (~~(Seclusion rooms shall have provisions for natural or artificial light and may be inside or outside rooms:)~~) Intended for short-term occupancy only;

(iii) (~~(There shall be window lights in doors or other provisions for direct visibility of a client at all times during occupancy:)~~) Designed and furnished to provide maximum security and safety for occupant;

(iv) (~~(Seclusion rooms shall provide fifty square feet of floor space, exclusive of fixed equipment, with a minimum dimension of six feet. (1) When))~~) An inside or outside room with natural or artificial light;

(v) Provided with window lights in door or other provisions for direct visibility of an occupant at all times; and

(vi) A minimum of fifty square feet of floor space, exclusive of fixed equipment and a minimum dimension of six feet.

(c) Physical examination(~~(s)~~) of (~~(clients are done)~~) residents when performed on a routine basis within the (~~(facility, an examination room should be available, providing)~~) center including:

(i) Provisions for privacy and adequate light(~~(:)~~);

(ii) A handwashing facility with (~~(towel dispenser)~~) single-use disposable towels or equivalent; and

(iii) A soap dispenser (~~(shall be available)~~).

(11) If seclusion or maximum security rooms are not required by program, these shall be immediately available in a hospital or other licensed facility.

(12) When medical and nursing supplies and equipment are washed, disinfected, stored, or handled within the (~~(facility)~~) center, centers shall provide utility and storage areas (~~(shall be)~~) designed and equipped for these functions providing for segregation of clean and sterile supplies and equipment from contaminated supplies and equipment.

(13) Centers shall provide housekeeping facilities(~~(:)~~) including:

(a) At least one service sink and housekeeping closet equipped with shelving (~~(shall be provided in a suitable setting:)~~); and

(b) Provision for collection and disposal of sewage, garbage, refuse, and liquid wastes (~~(shall be collected and disposed of)~~) in a manner to prevent creation of an unsafe or unsanitary condition or nuisance.

(14) (~~(The)~~) Centers shall provide:

(a) A heating system (~~(shall be)~~) operated and maintained to provide a comfortable, healthful temperature in rooms used by (~~(clients during the coldest weather conditions ordinarily encountered in the geographical location of the residential treatment facility:)~~) residents;

(~~(15) There shall be~~) (b) An area (~~(provided)~~) for secure storage of (~~(client)~~) resident records (~~(and for)~~);

(c) An area providing privacy (~~(of)~~) for authorized personnel to read and document in the (~~(client)~~) resident records(~~(:)~~);

(~~(16) There shall be a~~) (d) An appropriately furnished dining (~~(room(s))~~) room or rooms or (~~(area(s))~~) area or areas large enough to provide table service for all (~~(clients. Appropriate furnishings shall be provided for dining. (a) If a multipurpose room is used for dining and recreational activities or meetings, there shall be~~) residents;

(e) Sufficient space to accommodate (~~(each of the)~~) various activities (~~(without interference with one another:)~~) when a multipurpose

room is used for dining as well as recreational activities or meetings; and

(~~(b)~~) (f) At least forty square feet per bed (~~(shall be provided)~~) for the total combined area utilized for dining, social, educational, recreational activities, and group therapies.

(~~(17) There~~) (15) Centers shall (~~(be at least)~~) provide:

(a) Ready access to one "nonpay" telephone (~~(readily accessible)~~) in the event of fire or other emergencies(~~(- There shall be a telephone:)~~); and

(b) A readily available telephone for use (~~(of clients-)~~) by residents located so privacy is possible(~~(:)~~).

(~~(18)~~) (16) Centers shall arrange availability of a safely maintained outdoor recreational area (~~(shall be available)~~) for use of (~~(clients)~~) residents.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

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 1858, filed 8/6/82)

WAC 248-25-100 (~~(CLIENT)~~) RESIDENT CARE SERVICES IN PRIVATE ADULT TREATMENT HOMES. (1) The treatment home shall have written policies regarding admission criteria and treatment methods. Admission of (~~(clients)~~) residents shall be in keeping with stated policies and (~~(shall be)~~) limited to psychiatrically impaired (~~(clients)~~) residents for whom the home can provide adequate safety and care.

(2) Rules and regulations contained in chapter 248-25 WAC (~~(248-25-030 (2), (4), (5), (6), and (7))~~) shall apply (~~(with)~~) except for the following (~~(exclusions)~~): (~~(WAC 248-25-030 (7)(h)(vi) and (7)(j)(i))~~)

(a) WAC 248-25-010 (5), (6), (8), and (9);

(b) WAC 248-25-020;

(c) WAC 248-25-030 (1), (2), (6)(f);

(d) WAC 248-25-035 (6)(i)(i)-(ii) and (6)(k);

(e) WAC 248-25-040;

(f) WAC 248-25-050; and

(g) WAC 248-25-070.

(3) (~~(Medications shall be specifically ordered)~~) The treatment home shall:

(a) Require a specific order or prescription by a physician or other legally authorized practitioner (~~(and controlled by the licensee. (a) All medications shall be kept in)~~) for resident medications;

(b) Assume responsibility for security and monitoring of resident medications including:

(i) Locked storage or (~~(otherwise made)~~) other means to keep medication unaccessible to unauthorized persons (~~(and shall be refrigerated)~~);

(ii) Refrigeration of medication when required(~~(- (b))~~);

(iii) External and internal medications (~~(shall be)~~) stored separately (separate compartments) (~~(from internal medications. (c))~~);

(iv) Each medication (~~(s shall be)~~) stored in (~~(the medication's)~~) original labeled container(~~(- Each container shall be labeled and the label shall include)~~);

(v) Medication container labels including the name of the (~~(client)~~) resident and the date of purchase(~~(- (d) Only the)~~);

(vi) Limiting disbursement and access to licensee (~~(shall disperse or have access to medications)~~) except for self-administered medications(~~(- (e))~~);

(vii) Medications (~~(shall be)~~) dispersed only on (~~(the)~~) written approval of an individual or agency having authority by court order to approve medical care(~~(:)~~);

(viii) Medications (~~(shall be)~~) dispersed only as specified on the prescription label or as otherwise authorized by a physician(~~(- (f))~~); and

(ix) Ensuring self-administration of medications by a (~~(client shall be)~~) resident in accordance with the following:

(~~(i)~~) (A) The (~~(client)~~) resident shall be physically and mentally capable of properly taking his or her own medicine; and

(~~(ii)~~) (B) Prescription drugs, over-the-counter drugs, and other medical materials used by individuals shall be kept so the prescription drugs are not available to other individuals.

(4) (~~(Tuberculosis, communicable disease:~~

(a) Each licensee, employee, adult volunteer, and other adult individuals providing services or care and having regular contact with the clients shall have a tuberculosis skin test, by the Mantoux method, upon employment or licensing unless medically contraindicated:

(i) Individuals whose tuberculosis skin test is positive (10 mm or more induration) shall have a chest x-ray within ninety days following the skin test:

(ii) Routine periodic testing or x-ray after entry is not required:

(iii) An entry test shall not be required of individuals whose tuberculosis skin test has been documented as negative (less than 10 mm within the last two years, nor shall routine periodic retesting or x-ray be required of such individuals:

(b) A record of tuberculosis skin test results, x-rays, or exemptions to such shall be kept in the home:

(c) Individuals with a communicable disease in an infectious stage shall not be on duty:

(5)) Clinical records and record systems shall comply with WAC 248-25-060.

AMENDATORY SECTION (Amending Order 1858, filed 8/6/82)

WAC 248-25-120 PHYSICAL ENVIRONMENT REQUIREMENTS FOR PRIVATE ADULT TREATMENT HOMES. (1) The treatment home shall be located on a well-drained site, free from hazardous conditions, and accessible to other facilities necessary to carry out the ((home's)) program. ((There shall be)) At least one telephone on the premises ((which)) shall be accessible for emergency use at all times.

(2) The ((physical plant, premises, and equipment)) treatment home shall ((be maintained in a)) provide and maintain the physical plant, premises, and equipment:

(a) In clean and sanitary condition,

(b) Free of hazards, and

(c) In good repair.

(3) Treatment homes shall provide:

(a) Suitable space ((shall be provided and used)) for storage of clothing((- (4) Client));

(b) Resident bedrooms ((shall be)) which are outside rooms permitting entrance of natural light((- (a));

(c) Multiple occupancy bedrooms ((shall provide)), when used, not less than fifty square feet per resident occupant of floor area exclusive of closets((- (b) Each client shall have));

(d) A bed ((of his or her own)) for each resident which is at least thirty-six inches wide with ((a)) clean mattress, pillow, sheets, blankets, and pillowcases((- (5));

(e) Adequate facilities ((shall be provided)) for separate storage of soiled ((linen)) and clean linen((- (6) There shall be));

(f) At least one indoor flush-type toilet, one lavatory, and one bathtub or shower with hot and cold or tempered running water((- (a) Toilet and bathing facilities shall provide)) with:

(i) Provision for resident privacy((- (b)); and

(ii) Soap and individual ((towels)) or disposable towels ((shall be provided)).

(((7)) (g) Adequate lighting ((shall be provided. (8) Sewage and liquid wastes shall be discharged)); and

(h) Discharge of sewage and liquid wastes into a public sewer system or into an independent sewage system approved by the local health authority or the department.

(((9) A private water supply)) (4) Treatment homes shall ((be approved)) ensure:

(a) Approval by the local health authority or department((- (10) The)) when a private water supply is provided;

(b) A heating system ((shall be)) operated and maintained to provide not less than sixty-eight degrees Fahrenheit temperature in rooms used by ((clients)) residents during waking hours((- (11) The)); and

(c) Premises ((shall be kept)) free from rodents, flies, cockroaches, and other insects.

WSR 88-12-032
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed May 25, 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 hospitals, amending chapter 248-18 WAC;

that the agency will at 10:00 a.m., Tuesday, July 26, 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 July 27, 1988.

The authority under which these rules are proposed is RCW 70.41.030.

The specific statute these rules are intended to implement is chapter 70.41 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12, 1988. The meeting site is in a location which is barrier free.

Dated: May 24, 1988

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 248-18-99902 Appendix B—Dates of documents adopted by reference in chapter 248-18 WAC, 248-18-655 (1)(c)(d)(e) Radiology facilities, 248-18-718 (6)(h) and (8)(h)(iii) General design and 248-18-515.

Purpose of the Amended Rule: To update outdated reference list of industry standards, guides and codes which are adopted by reference in those sections of chapter 248-18 WAC governing hospital construction.

Reason(s) These Rules are Necessary: Since the state Fire Marshal and local codes now require adherence to requirements in updated editions of documents referenced, state licensure rules require modification to be current, consistent and in the public interest.

Statutory Authority: RCW 70.41.030.

Summary of the Rule Change: The titles, dates or both of some referenced material were changed to be

consistent with titles and dates which were changed throughout industry standards.

Person Responsible for the Enforcement of the Rule: Sylvia I. Beck, Section Manager, Consultation and Construction Review, Office of Licensing and Certification, Division of Health, mailstop ET-12, phone (206) 753-5822.

Rules proposed by the Consultation and Construction Review Section, Office of Licensing and Certification, Division of Health, DSHS.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 269, filed 9/20/83)

WAC 248-18-655 RADIOLOGY FACILITIES. ²¹ (REQUIREMENTS IN CAPITAL LETTERS - SEE WAC 248-18-515.)

(1) RADIOLOGY FACILITIES, GENERAL.

(a) LOCATED FOR CONVENIENT TRANSPORT OF PATIENTS FROM EMERGENCY DEPARTMENT, SURGERY SUITE, AND NURSING UNITS, and for access by outpatients.

(b) LOCATED SO OUTPATIENT TRAFFIC THROUGH INPATIENT AREAS WILL BE AVOIDED.

(c) GROUNDING OF TABLE, TUBE STAND AND CONTROLS, OR ANY ASSOCIATED ELECTRICAL APPARATUS AS SPECIFIED BY THE NATIONAL ELECTRICAL CODE, ((1959)) NFPA 70 referred to in WAC 248-18-99902(13).

(d) INSTALLATIONS OF X-RAY EQUIPMENT, COBALT-60, OR OTHER SOURCES OF IONIZING RADIATION, AND RADIATION PROTECTION OF FLOORS, DOORS, WALLS, AND CEILINGS AS SPECIFIED IN NATIONAL ((BUREAU OF STANDARDS HANDBOOK 76, MEDICAL X-RAY PROTECTION UP TO THREE MILLION VOLTS, FEBRUARY 9, 1961-

~~(c) INSTALLATIONS OF COBALT-60, OR OTHER SOURCES OF IONIZING RADIATION, AS SPECIFIED IN NATIONAL BUREAU OF STANDARDS HANDBOOK 73, PROTECTION AGAINST RADIATION FROM SEALED GAMMA SOURCES, JULY 27, 1960, OR "RULES AND REGULATIONS FOR RADIATION PROTECTION" OF THE WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, TITLE 402 WAC, WHICHEVER IS MORE STRICT)) COUNCIL ON RADIATION PROTECTION HANDBOOK NO. 49 REFERRED TO IN WAC 248-18-99902(18).~~

(2) ADMINISTRATIVE FACILITIES. Need not be in separate rooms.

(a) OFFICE AREA.

Equipment:

Telephones.

Bulletin board.

Electric clock.

(b) VIEWING AREA.

EQUIPMENT:

FILM ILLUMINATORS.⁶

(c) FILM FILE AREA (ACTIVE).

(d) FILM STORAGE (INACTIVE).

Need not be located with other radiology facilities.

(3) WAITING AREA.

(a) May be shared with suitable waiting areas for other hospital services if adjacent.

(b) SUITABLE SPACE FOR WHEELCHAIR AND STRETCHER PATIENTS.

(c) Not required in hospitals of less than twenty-five beds.

(4) RADIOGRAPHIC ROOM.

(a) AT LEAST ONE FOR EVERY HOSPITAL. IN HOSPITALS OF ONE HUNDRED FIFTY BEDS AND OVER (EXCLUDING BEDS IN NURSING HOME AND PSYCHIATRIC UNITS) MINIMUM OF ONE ADDITIONAL RADIOGRAPHY ROOM.

(b) DESIGNED TO PERMIT ACCESS FOR WHEELED STRETCHER OR BED.

(c) CONTROL AREA WITH RADIATION PROTECTIVE BARRIER.

(5) FACILITIES FOR FLUOROSCOPY.

(a) May be separate or combined with radiographic room.

(b) LIGHT PROOF.

(6) BARIUM PREPARATION AREA.

(a) BARIUM SINK WITH WORK COUNTER.

(b) STORAGE FACILITIES.¹⁸

(7) DARKROOM.

(a) LIGHT PROOF.

(b) EQUIPMENT:

SAFELITE.

DEVELOPING TANK - Thermostatic mixing valve.

FILM STORAGE.⁶

WORK COUNTER.

SINK OR LAVATORY.

PROVISION FOR FILM DRYING.⁶

FILM ILLUMINATOR.⁶

Lightproof cassette passbox to radiographic room.

(8) DRESSING AREA.

(a) ROOMS OR BOOTHS LOCATED FOR PRIVACY ENROUTE TO RADIOGRAPHIC ROOMS AND TOILET ROOMS.

(b) Two for each radiographic room recommended.

(c) GOWN STORAGE.^{6,18}

(d) SPACE FOR LINEN HAMPER.

(9) TOILET ROOM.

LOCATED FOR READY ACCESS FROM EACH RADIOGRAPHIC ROOM.

(10) Therapy room.

(11) HOUSEKEEPING FACILITIES.⁵

Suitable combination with other housekeeping facilities permitted if convenient to radiology facilities.

Notes:

⁵See GENERAL REQUIREMENTS FOR SERVICE FACILITIES, WAC 248-18-710(5), HOUSEKEEPING FACILITIES.

⁶May be movable equipment.

¹⁸See GENERAL REQUIREMENTS FOR SERVICE FACILITIES, WAC 248-18-710(3), STORAGE FACILITIES.

²¹Refer to "Rules and Regulations for Radiation Protection" of the Washington State Department of Social and Health Services, Title 402 WAC.

AMENDATORY SECTION (Amending Order 2348, filed 3/20/86)

WAC 248-18-718 GENERAL DESIGN REQUIREMENTS. (REQUIREMENTS ARE SHOWN IN CAPITAL LETTERS. SEE WAC 248-18-515.)

(1) VECTOR CONTROL. CONSTRUCTION OF THE BUILDING SHALL BE SUCH AS TO PREVENT THE ENTRANCE AND HARBORAGE OF RODENTS AND INSECTS.

(2) ELEVATORS.

(a) AT LEAST ONE ELEVATOR CONVENIENTLY ACCESSIBLE FROM GROUND LEVEL IN ALL HOSPITALS WITH PATIENT CARE AND/OR DIAGNOSTIC AREAS ON OTHER THAN GROUND LEVEL OR ON MORE THAN ONE LEVEL. IF ELEVATOR REQUIRED,

(i) AT LEAST TWO ELEVATORS IN ALL HOSPITALS WITH A CAPACITY OF MORE THAN SIXTY BEDS;

(ii) AT LEAST THREE ELEVATORS IN ALL HOSPITALS WITH A CAPACITY OF OVER TWO HUNDRED BEDS ON OTHER THAN THE GROUND LEVEL.

(b) A GREATER NUMBER OF ELEVATORS MAY BE REQUIRED BECAUSE OF THE HOSPITAL PLAN, VOLUME OF VISITOR TRAFFIC, AND FOOD AND SUPPLY DISTRIBUTION SYSTEM.²⁴

(c) SIZE OF REQUIRED PATIENT TRANSPORT ELEVATORS: AT LEAST ONE ELEVATOR OF FIVE FOOT FOUR INCH WIDTH BY EIGHT FEET SIX INCHES LENGTH INSIDE DIMENSIONS WITH DOOR OPENING OF FOUR FEET. In alteration projects where the elevator shaft is existing, elevators of lesser inside dimensions may be permitted.

(3) STAIRWAYS, RAMPS, CORRIDORS, AND AISLES.

(a) STAIRWAYS AND RAMPS.

(i) NONSKID SURFACES.

(ii) HANDRAILS ON BOTH SIDES.

(iii) ADEQUATE GUARDRAILS AND OTHER SAFETY DEVICES ON ALL STAIRWELLS AND RAMPS.

(iv) SLOPE OF RAMPS USED FOR PATIENTS NOT TO EXCEED ONE IN TWELVE.

SLOPE OF RAMPS IN SERVICE AREAS NOT TO EXCEED ONE IN TEN.

(b) CORRIDORS.

(i) A CORRIDOR SYSTEM ESTABLISHED THROUGHOUT HOSPITAL. CORRIDORS SHALL PROVIDE A METHOD OF

TRAFFIC CIRCULATION DESIGNED FOR PATIENT PRIVACY, TO PREVENT THROUGH TRAFFIC IN EXAMINATION, OBSERVATION, TREATMENT, AND DIAGNOSTIC AREAS.

(ii) CORRIDORS AT LEAST EIGHT FOOT ZERO INCHES WIDE WITH NO RESTRICTION MORE THAN SEVEN INCH TOTAL. EXISTING SEVEN FOOT ZERO INCH CORRIDORS ACCEPTABLE FOR ALTERATION PROJECTS. FIVE FOOT ZERO INCH MINIMUM CORRIDOR WIDTH FOR AMBULATORY PATIENT TRAFFIC WITHIN A SINGLE DEPARTMENT; FOUR FOOT ZERO INCH MINIMUM CORRIDOR FOR NONPATIENT AREAS AND DEPARTMENTS PROVIDED THERE IS A FIVE-BY-FIVE FOOT TURNAROUND AT LEAST EVERY SEVENTY-FIVE FEET.

(iii) HANDRAILS BOTH SIDES OF CORRIDORS USED BY PATIENTS ON REHABILITATION NURSING UNITS, NURSING HOME UNITS, AND OTHER LONG-TERM CARE NURSING UNITS.

(iv) DOORS, EXCEPT THOSE TO SMALL UNOCCUPIED SPACES, SHALL NOT SWING INTO REQUIRED CORRIDOR WIDTH.

(c) AISLES.

SUFFICIENTLY WIDE TO ALLOW FOR UNIMPEDED MOVEMENT OF EQUIPMENT AND PERSONNEL.

(4) DOORS, WINDOWS, AND SCREENS.

(a) DOORS.

(i) FOUR FOOT ZERO INCH MINIMUM WIDTH IN OPERATING ROOM, DELIVERY ROOM, BIRTHING ROOM, RECOVERY ROOM, MAJOR EMERGENCY TREATMENT ROOM, FRACTURE ROOM, X-RAY ROOM, COMPUTERIZED AXIAL TOMOGRAPHY ROOMS, TO ALL TYPES OF INTENSIVE CARE UNITS AND TREATMENT ROOMS IN INTENSIVE CARE.

(ii) THREE FOOT TEN INCH MINIMUM WIDTH FOR PATIENT ROOMS, NEWBORN NURSERIES, ULTRASOUND ROOMS, NUCLEAR MEDICINE TREATMENT ROOMS, PHYSICAL THERAPY TREATMENT ROOMS, HORIZONTAL EXITS, AND OTHER DOORS THROUGH WHICH PATIENTS ARE TRANSPORTED IN STRETCHERS OR BEDS. Four foot zero inch doors recommended.

(iii) EXISTING THREE FOOT EIGHT INCH DOORS ACCEPTABLE IN ALTERATIONS EXCEPT IN ALTERATIONS OF OPERATING ROOMS, MAJOR EMERGENCY TREATMENT ROOMS, DELIVERY ROOMS, RECOVERY ROOMS, INTENSIVE CARE ROOMS, FRACTURE ROOMS OR X-RAY.

(iv) THREE FOOT ZERO INCH MINIMUM WIDTH FOR ALL DOORS WHICH MAY BE USED BY PERSONS IN WHEELCHAIRS INCLUDING PATIENT TOILETS AND BATHROOMS EXCEPT DOORS TO TOILETS AND BATHROOMS WHICH OPEN INTO PATIENT ROOMS SHALL BE NOT LESS THAN TWO FOOT SIX INCHES IN WIDTH.

(v) Doors to toilets adjoining patient rooms should not swing into toilet rooms.

(vi) Adequate width for receiving entrance doors, storeroom doors, and other doors through which large carts or bulk goods are transported.

(vii) VISION PANELS IN ALL DOUBLE-ACTING DOORS. Four inches wide by twenty-four inches high recommended.

(b) WINDOWS.

(i) REQUIRED IN PATIENT ROOMS EXCEPT LABOR ROOMS AND NURSERIES.

(ii) REQUIRED WINDOWS TO HAVE CLEAR GLASS AREA OF AT LEAST ONE-TENTH FLOOR AREA.

(iii) REQUIRED WINDOWS TO BE LOCATED IN OUTSIDE WALLS PERMITTING A SATISFACTORY AMOUNT OF UNOBSTRUCTED NATURAL LIGHT. No required windows should be located within twenty feet of another building or the opposite wall of a court or within ten feet of a property line except a street.

(iv) WINDOW SILLS OF REQUIRED WINDOWS IN PATIENT ROOMS NO HIGHER THAN THREE FOOT ZERO INCHES FROM THE FLOOR. GRADE³⁷ ADJACENT TO REQUIRED WINDOWS IN PATIENT ROOMS TO BE BELOW WINDOW SILL.

(c) SCREENS.

SIXTEEN MESH SCREEN OR EQUAL ON WINDOW OPENINGS WHICH SERVE FOR REQUIRED VENTILATION.

(5) FLOOR FINISHES, WALL SURFACES, AND CEILINGS.

(a) FLOOR FINISHES:

(i) EASILY CLEANED AND SUITABLE TO THE FUNCTIONS OF EACH AREA.

(ii) NONSLIP AT ENTRANCES AND OTHER AREAS SUBJECT TO TRAFFIC OR USE WHILE WET.

(iii) COVED BASES INTEGRAL WITH FLOORS OR TOPSET BASE TIGHT TO FLOORS AND WALLS.

(iv) ELECTRICALLY CONDUCTIVE IN AREAS WHERE FLAMMABLE ANESTHETIC GASES ARE TO BE USED PER NATIONAL FIRE PROTECTION ASSOCIATION (NFPA), 99. SEE WAC 248-18-99902(1).

(v) SPECIFICATIONS FOR CARPETING IN NONPATIENT-OCCUPIED AREAS:

(A) PILE YARN FIBER: FIBER WHICH MEETS THE STANDARDS OF THE STATE FIRE MARSHAL (See RCW 70.41.080) SHALL BE ACCEPTABLE PROVIDED THE FIBER IS EASILY CLEANABLE.

(B) PILE TUFTS PER SQUARE INCH: MINIMUM SIXTY-FOUR OR EQUIVALENT DENSITY.

(C) PILE HEIGHT: FROM A MINIMUM OF .125 INCHES TO A MAXIMUM OF .312 INCHES.

(D) PAD: MAY BE SEPARATE PAD.

(vi) SPECIFICATIONS FOR CARPETING IN PATIENT-OCCUPIED AREAS:

(A) PILE YARN FIBER: FIBERS WHICH MEET THE STANDARDS OF THE STATE FIRE MARSHAL (See RCW 70.41.080) SHALL BE ACCEPTABLE PROVIDED THE FIBER IS EASILY CLEANABLE.

(B) PILE TYPE: ROUND LOOP.

(C) PILE TUFTS PER SQUARE INCH: MINIMUM SIXTY-FOUR OR EQUIVALENT DENSITY.

(D) PILE HEIGHT: LEVEL PILE, FROM A MINIMUM OF .125 INCHES TO A MAXIMUM OF .255 INCHES.

(E) BACKING: SHALL BE WATER IMPERVIOUS OR A WATER IMPERVIOUS PAD SHALL BE PERMANENTLY BONDED TO THE BACKING.

(vii) INSTALLATION OF CARPET MATERIAL:

(A) BONDED PAD CARPET MUST BE CEMENTED TO THE FLOOR WITH WATERPROOF CEMENT.

(B) EDGES OF CARPET MUST BE COVERED AND COVE OR BASE SHOE USED AT ALL WALL JUNCTURES. IF BROADLOOM CARPET IS USED, SEAMS ARE TO BE BONDED TOGETHER WITH MANUFACTURER RECOMMENDED CEMENT.

(C) SAFETY OF PATIENTS OR OCCUPANTS IS TO BE ASSURED DURING INSTALLATION. ROOMS MUST BE WELL-VENTILATED AND NOT BE USED BY RESIDENT OCCUPANTS OR PATIENTS DURING INSTALLATION. THE ROOM MAY NOT BE RETURNED TO USE UNTIL THE ROOM IS FREE OF VOLATILE FUMES AND ODORS FROM ADHESIVES.

(b) WALL SURFACES:

(i) EASILY CLEANED AND SUITABLE TO THE FUNCTIONS OF EACH AREA.

(ii) SMOOTH AND WASHABLE FINISH, (e.g., washable paint on smooth finish plaster or gypsum board as opposed to rough or exposed masonry finishes) IN ROOMS USED FOR PATIENT CARE OR TREATMENT AND ROOMS IN WHICH SUPPLIES AND EQUIPMENT FOR PATIENT CARE OR TREATMENT ARE STORED, ASSEMBLED OR PROCESSED, AND IN CLINICAL LABORATORIES.

(iii) A FINISH WHICH WILL MINIMIZE GLARE IN PATIENT ROOMS AND LABOR ROOMS.

(iv) A WATERPROOF PAINTED, GLAZED, OR SIMILAR WATERPROOF FINISH EXTENDING ABOVE THE SPLASH LINE IN ALL ROOMS OR AREAS THAT ARE SUBJECT TO SPLASH OR SPRAY.

(v) Wainscot of five feet minimum height of a durable surface in operating rooms, delivery rooms, emergency rooms, treatment rooms, and corridors.

(vi) External angles protected by corner guards to resist impact in areas of heavy traffic.

(c) CEILINGS:

(i) EIGHT FOOT MINIMUM HEIGHT, EXCEPTIONS MAY BE PERMITTED IN MINOR AUXILIARY ROOMS.

(ii) NINE FOOT MINIMUM HEIGHT IN OPERATING ROOMS, DELIVERY ROOMS, AND SIMILAR ROOMS HAVING SPECIAL CEILING-MOUNTED LIGHT FIXTURES. Higher ceilings may be needed for some types of equipment.

(iii) EASILY CLEANED AND SUITABLE TO THE FUNCTIONS OF EACH AREA.

(iv) SMOOTH AND WASHABLE FINISH, (e.g., washable paint on smooth finish plaster or gypsum board as opposed to fissured tile or rough finishes) IN ROOMS USED FOR PATIENT CARE OR TREATMENT, AND IN ROOMS IN WHICH SUPPLIES AND EQUIPMENT FOR PATIENT CARE OR TREATMENT ARE STORED, ASSEMBLED OR PROCESSED, AND CLINICAL LABORATORIES. NO EXPOSED DUCTWORK AND PIPING.

(v) SMOOTH AND WASHABLE FINISH WITHOUT VISIBLE JOINTS OR CREVICES IN AREAS WHERE SURGICAL ASEP-SIS MUST BE ASSURED SUCH AS OPERATING ROOMS, DELIVERY ROOMS, AND EMERGENCY TREATMENT ROOMS.

(vi) A FINISH WHICH WILL MINIMIZE GLARE IN PATIENT ROOMS, LABOR ROOMS, AND BIRTHING ROOMS.

(vii) FINISH THAT MINIMIZES REFLECTION OF ULTRAVIOLET RADIATION IN TUBERCULOSIS ISOLATION ROOMS.

(viii) CEILINGS OF PATIENT ROOMS IN PSYCHIATRIC NURSING UNITS, SECURITY, AND SECLUSION ROOMS SHALL BE OF MONOLITHIC OR BONDED CONSTRUCTION.

(ix) Sound-absorptive treatment in corridors of patient areas, nurses' stations, dining rooms, and hydrotherapy rooms.

(6) PLUMBING AND SEWERAGE.

(a) PLUMBING AND SEWERAGE. CONSTRUCTED IN ACCORDANCE WITH THE UNIFORM PLUMBING CODE, OR EQUIVALENT LOCAL CODE. SEE WAC 248-18-99902(3).

(b) WATER SUPPLY.

(i) AN ADEQUATE WATER SUPPLY WHICH CONFORMS TO THE QUALITY STANDARDS OF CHAPTER 248-54 WAC.

(ii) TEMPERATURE OF HOT WATER AT BATHING FIXTURES THERMOSTATICALLY CONTROLLED NOT TO EXCEED ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

(iii) THERMOSTATICALLY CONTROLLED HOT WATER HEATING EQUIPMENT OF SUFFICIENT CAPACITY TO SUPPLY SIX AND ONE-HALF GALLONS OF ONE HUNDRED TWENTY DEGREE FAHRENHEIT WATER PER HOUR PER BED FOR GENERAL USE, MEASURED AT POINT OF USE. AN ADEQUATE AMOUNT OF WATER AT NOT LESS THAN ONE HUNDRED SIXTY DEGREES FAHRENHEIT FOR LAUNDRY, MECHANICAL DISHWASHERS, AND OTHER SPECIAL MECHANICAL WASHERS. TEMPERATURE MEASURED AT POINT OF USE.

(iv) CIRCULATING SYSTEMS AS NECESSARY TO ENSURE A READY SUPPLY OF HOT WATER AT FIXTURES.

(c) INSULATION.

(i) HOT WATER PIPING INSULATED AS REQUIRED TO CONTROL EXCESSIVE HEAT TRANSFER AND TO PROVIDE FOR SAFETY.

(ii) COLD WATER AND DRAINAGE PIPING INSULATED AS REQUIRED TO CONTROL CONDENSATION.

(iii) AVOID EXPOSING PIPING TO FREEZING TEMPERATURES. IF UNAVOIDABLE, DESIGN TO PREVENT FREEZING.

(d) SEWERAGE.

(i) SEWAGE DISPOSAL SYSTEM IN CONFORMANCE WITH CHAPTER 248-92 OR 248-96 WAC CODIFIED RULES, REGULATIONS AND STANDARDS OF THE STATE BOARD OF HEALTH.

(ii) FLOOR DRAINS IN AREAS WITHOUT DAILY WASH-DOWN SHALL HAVE TRAP PRIMERS.²⁴

(e) PLUMBING FIXTURES.

(i) Bedpan lugs or slot fixtures on water closets not recommended.

(ii) DESIGNED AND INSTALLED TO BE EASILY CLEANED, MAINTAINED, AND SUITABLE TO THE INTENDED USE.²⁴ ADEQUATE SUPPORT FOR FIXTURES.

(iii) LAVATORIES PROVIDED IN EACH TOILET ROOM EXCEPT WHERE PROVIDED IN CONNECTING PATIENT ROOM, DRESSING ROOM, OR LOCKER ROOM.

(iv) DRINKING FOUNTAINS OR EQUIVALENT AT SUITABLE LOCATIONS.²⁴

(v) SINKS IN WHICH UTENSILS AND EQUIPMENT ARE TERMINALLY CLEANED TO BE DOUBLE COMPARTMENT

OF ADEQUATE SIZE AND DEPTH (Recommended each compartment 20 x 22 x 14 or similar) WITH ADEQUATE COUNTER SPACE ON BOTH SIDES.²⁴

(vi) EACH FIXTURE, EXCEPT WATER CLOSETS AND SPECIAL USE FIXTURES, PROVIDED WITH HOT AND COLD WATER THROUGH A MIXING OUTLET.

(vii) DEVICES TO PREVENT BACKFLOW ON WATER SUPPLY TO FIXTURES OR GROUP OF FIXTURES WHERE THE USE OF EXTENSION HOSES AND TUBE CLEANING EQUIPMENT IS ANTICIPATED, (e.g., sinks in laboratory, central service, garbage can wash area, and housekeeping facilities and mechanical areas). Also refer to chapter 248-54 WAC.

(viii) NONSKID FLOOR SURFACES IN TUBS AND SHOWERS.

(f) FITTINGS.

(i) WRIST, KNEE, OR FOOT FAUCET CONTROLS AND GOOSENECK SPOUTS OR THE EQUIVALENT ON LAVATORIES IN PATIENT ROOMS AND IN TOILETS ADJOINING PATIENT ROOMS EXCEPT THOSE FOR PSYCHIATRIC PATIENTS TO BE IN ACCORDANCE WITH PROGRAM REQUIREMENTS.

(ii) WRIST, KNEE, OR FOOT FAUCET CONTROLS AND GOOSENECK SPOUTS OR THE EQUIVALENT⁴¹ ON ALL LAVATORIES AND SINKS FOR PERSONNEL USE WHERE REQUIRED TO CONTROL CROSS INFECTION, (e.g., nursing service areas including isolation rooms, laboratory, and physical therapy), UNLESS THE FIXTURE IS USED FOR SOILED FUNCTIONS ONLY AND ANOTHER SINK OR LAVATORY WITH WRIST, KNEE, OR FOOT CONTROLS OR EQUIVALENT⁴¹ IS LOCATED IN THE SAME AREA OF THE ROOM. FAUCET CONTROLS ON LAVATORIES IN NEWBORN NURSERY UNITS, NEONATAL INTENSIVE CARE UNITS, BIRTHING ROOMS, AND ALL SCRUB SINKS TO BE KNEE OR FOOT CONTROLS OR EQUIVALENT.⁴¹ Wrist blades permitted at lavatory when handwashing facility with foot, knee, or equivalent faucet control is located close to birthing room or rooms.

(iii) WRIST CONTROLS TO HAVE A MINIMUM OF FOUR INCH SPACE BETWEEN BACK SPLASH AND ENDS OF CONTROLS AT FULL CLOSED POSITION AND A MINIMUM OF FOUR INCH SPACE BETWEEN THE END OF CONTROLS AND THE WATER SPOUT IN THE FULL OPEN POSITION.

(g) ACCESSORIES.

(i) BACKING FOR MOUNTING TO SUPPORT THE INTENDED USE OF ALL ACCESSORIES.

(ii) SUITABLE SHELF OR EQUIVALENT, AND MIRROR AT EACH LAVATORY IN TOILET ROOMS, PATIENT ROOMS, BIRTHING ROOMS, DRESSING ROOMS, AND LOCKER ROOMS.

(iii) TOWEL BAR OR HOOK AT EACH BATHING FACILITY. Optional in psychiatric unit.²⁴

(iv) ROBE HOOK AT EACH BATHING FACILITY, WATER CLOSET, DRESSING ROOM, AND EXAMINATION ROOM. Optional in psychiatric unit.²⁴

(v) TOILET PAPER HOLDER PROPERLY LOCATED AT EACH WATER CLOSET.

(vi) WHEN PROGRAM INCLUDES BEDPAN BRUSHES, PROVISION FOR KEEPING BEDPAN BRUSH OFF THE FLOOR.

(vii) PROVISION FOR OFF THE FLOOR PLACEMENT OF SUPPLIES AND EQUIPMENT IN PATIENT TOILETS. THIS PROVISION SHALL BE SEPARATE AND DISTINCT FROM LAVATORY SHELF.

(viii) AT LEAST ONE GRAB BAR OF SUITABLE STRENGTH, EASILY CLEANABLE, RESISTANT TO CORROSION, AND FUNCTIONAL DESIGN SECURELY MOUNTED AND PROPERLY LOCATED AT EACH ISLAND TUB AND WATER CLOSET FOR PATIENTS. Horizontal grab bars should extend at least eighteen inches in front of water closet. WHEN A LAVATORY IS LOCATED ADJACENT TO A WATER CLOSET AND WITHIN EIGHTEEN INCHES OF THE CENTER LINE OF THE WATER CLOSET, IT SHALL BE MOUNTED TO SUPPORT A THREE HUNDRED POUND LIVE LOAD WITHOUT PERMANENT DEFLECTION. GRAB BAR OR BARS OF SUITABLE STRENGTH, EASILY CLEANABLE, RESISTANT TO CORROSION, OF FUNCTIONAL DESIGN, SECURELY MOUNTED, AND PROPERLY LOCATED AT EACH STANDARD BATHTUB AND SHOWER ON TWO SIDES. May be

omitted at water closets and bathing facilities for seclusion and security rooms.

(ix) DISPENSERS FOR SINGLE USE TOWELS AT ALL LAVATORIES AND SINKS MOUNTED TO AVOID CONTAMINATION FROM SPLASH AND SPRAY.

(x) SUITABLE PROVISION FOR SOAP AT EACH LAVATORY, SINK, AND BATHING FACILITY.

(xi) Paper cup dispensers at all lavatories except in soiled areas, lavatories in patient rooms, and toilet rooms adjoining patient rooms.

(xii) Properly located dispenser for seat covers at each water closet.

(xiii) Sanitary napkin dispenser and disposer or covered waste container (step-on-can) in each women's toilet room except inpatient toilets.

(h) NONFLAMMABLE MEDICAL GAS SYSTEMS IN ACCORDANCE WITH THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) STANDARD ((56F) 99. SEE WAC 248-18-99902(4).

(i) Clinical vacuum (suction) systems in accordance with the recommendations of Compressed Gas Association, Inc., Pamphlet Number P-2.1, except the zone valves may be omitted. See WAC 248-18-99902(11).

(7) HEATING. Recommend use of ASHRAE Handbook series. See WAC 248-18-99902(2).

(a) A HEATING SYSTEM ADEQUATE TO MAINTAIN SEVENTY-FIVE DEGREES FAHRENHEIT MINIMUM TEMPERATURE IN EACH ROOM AND OCCUPIED SPACE.

(b) HEAT SUPPLY FOR EACH PATIENT ROOM PROVIDED WITH INDIVIDUAL THERMOSTATIC CONTROL. Manual or zone control acceptable for existing facility alteration projects. Individual room thermostatic control recommended for all rooms. HEATING SYSTEM SUITABLY ZONED (e.g., by exposure and usage of areas) AND THERMOSTATICALLY CONTROLLED UNLESS INDIVIDUAL ROOMS THERMOSTATICALLY CONTROLLED.

(c) Standby heat supply to operating rooms, delivery rooms, birthing rooms, recovery rooms, nurseries, all intensive care units, and other selected areas so that they may be heated at times when the general building heating system is not operating.

(d) PIPING THROUGHOUT BUILDING INSULATED AS REQUIRED TO CONTROL EXCESSIVE HEAT TRANSFER AND TO PROVIDE FOR SAFETY.

(8) VENTILATION AND AIR CONDITIONING. USE ASHRAE HANDBOOK SERIES REFERRED TO IN WAC 248-18-99902(2).

(a) ALL ROOMS AND AREAS ADEQUATELY VENTILATED BY MECHANICAL MEANS. (Refer to Table B) DESIGN OF SYSTEM TO PREHEAT COLD OUTSIDE AIR MAKEUP. Gravity acceptable for gas storage rooms, mechanical rooms, and similar areas.

(b) Approved recovery systems to reclaim heat from exhausts are recommended for energy conservation. DESIGN AND INSTALLATION OF HEAT RECOVERY EQUIPMENT TO CONTROL CROSS CONTAMINATION.

(c) ALL FANS SERVING EXHAUST SYSTEMS SHALL BE LOCATED AT THE DISCHARGE END OF THE SYSTEM OR THE SYSTEMS DESIGNED TO PREVENT LEAKAGE TO OCCUPIED AREAS.

(d) DESIGN OF AIR DISTRIBUTION AND BALANCING OF AIR SYSTEMS: TO MAINTAIN APPROPRIATE PRESSURE GRADIENTS AMONG ADJOINING ROOMS AND AREAS TO CONTROL AIR FLOWS IN ACCORDANCE WITH THE RELATIVE DEGREE OF PROTECTION REQUIRED FROM THE SPREAD OF ODORS, MOISTURE, TOBACCO SMOKE, AND CONTAMINANTS, i.e., flow from relatively clean areas to relatively soiled areas. Refer to Table B. Balance for appropriate positive and negative gradients should be evaluated by measuring proper direction of air flow at each doorway by smoke indicator. Designs should be based on anticipated leakage at each door. (Fifty CFM minimum to one hundred CFM maximum for usual room door.)

(e) EXHAUST HOODS OR OTHER APPROVED EXHAUST DEVICES.

(i) LOCATED OVER EQUIPMENT LIKELY TO PRODUCE EXCESSIVE HEAT, MOISTURE, ODORS, OR CONTAMINANTS, (e.g., kitchen, laundry, sterilizing and dishwashing equipment, laboratory and special work areas) PROPERLY DESIGNED FOR INTENDED USE.

(ii) LABORATORY HOODS WHERE INFECTIOUS MATERIALS ARE HANDLED. See WAC 248-18-99902(7) for recommended publications.

(A) MINIMUM FACE VELOCITY OF SEVENTY-FIVE FEET PER MINUTE AT MAXIMUM OPERATING LEVEL OF SASH.

(B) SERVED BY INDEPENDENT EXHAUST SYSTEM WITH THE EXHAUST FAN LOCATED AT THE DISCHARGE END OF THE DUCT.

(C) DUCT TO HAVE WELDED JOINTS OR EQUIVALENT FROM THE HOOD TO FILTER ENCLOSURE.

(D) FILTERS WITH 99.97 PERCENT EFFICIENCY (DIOC-TYL-PHTHALATE, (DOP), TEST METHOD) IN THE EXHAUST STREAM.

(E) DESIGNED AND EQUIPPED TO PERMIT THE SAFE REMOVAL OF CONTAMINATED FILTERS.

(F) CHEMICAL FUME HOODS SHALL NOT BE USED FOR HANDLING INFECTIOUS MATERIALS.

(iii) LABORATORY HOODS WHERE STRONG OXIDIZING AGENTS, (e.g., perchloric acid), ARE PROCESSED.

(A) MINIMUM FACE VELOCITY OF ONE HUNDRED FEET PER MINUTE AT MAXIMUM OPERATING LEVEL OF SASH.

(B) SERVED BY INDEPENDENT EXHAUST SYSTEM WITH EXPLOSION PROOF EXHAUST FAN AT THE DISCHARGE END OF THE DUCT.

(C) DUCT OF WELDED STAINLESS STEEL OR EQUIVALENT THROUGHOUT THE EXHAUST SYSTEM.

(D) HOOD AND EXHAUST DUCT SYSTEM EQUIPPED WITH COMPLETE COVERAGE WASHDOWN FACILITIES.

(iv) HOODS WHERE RADIOACTIVE PARTICULATE AEROSOLS MAY BE RELEASED.

(A) MINIMUM FACE VELOCITY OF ONE HUNDRED FEET PER MINUTE AT MAXIMUM OPERATING LEVEL OF SASH.

(B) SERVED BY INDEPENDENT EXHAUST SYSTEM WITH THE EXHAUST FAN AT THE DISCHARGE END OF THE DUCT.

(C) DUCT TO HAVE WELDED JOINTS OR EQUIVALENT FROM THE HOOD TO THE FILTER ENCLOSURE.

(D) FILTERS WITH 99.97 PERCENT EFFICIENCY (DIOC-TYL-PHTHALATE, (DOP) TEST METHOD) IN THE EXHAUST STREAM.

(E) DESIGNED AND EQUIPPED FOR THE SAFE REMOVAL OF CONTAMINATED FILTERS.

(f) ALL CENTRAL VENTILATION OR AIR CONDITIONING SYSTEMS EQUIPPED WITH FILTERS.

(i) NUMBER OF FILTER BEDS AND FILTER EFFICIENCIES NO LESS THAN THOSE SPECIFIED IN TABLE A.

(ii) FILTER BED NO. 2 SHALL BE DOWNSTREAM OF THE LAST COMPONENT OF ANY CENTRAL AIR HANDLING UNIT, EXCEPT A STEAM INJECTION TYPE HUMIDIFIER MAY BE DOWNSTREAM OF FILTER BED NO. 2. TERMINAL COOLING COILS (EXCEPT INDUCTION UNITS, FAN COIL UNITS OR EQUIVALENT INDIVIDUAL ROOM UNITS (REFER TO SUBSECTION (8)(g) OF THIS SECTION) DOWNSTREAM OF FILTER BED NO. 2 SHALL HAVE ADDITIONAL FILTRATION MEETING REQUIREMENTS OF FILTER BED NO. 2.

TABLE A

FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR CONDITIONING SYSTEMS IN GENERAL HOSPITALS

AREA DESIGNATION	FILTER EFFICIENCIES (Percent)***		FILTER BED NO. 2
	MINIMUM NUMBER OF FILTER BEDS	FILTER BED NO. 1	
Sensitive areas*	2	25	90****
Patient care, treatment Diagnostic, and related areas	2	25	90**
Food preparation areas and laundries	1	80	—
Administrative, bulk storage, and soiled holding areas	1	25	—

* Includes surgical suites, delivery suites, nursery units, recovery rooms, special procedure rooms (cardiac catheterizations), and all intensive care units.

Birthing, labor, and postpartum rooms not within the delivery suite are excluded.

** May be reduced to eighty percent for systems using all-outdoor air.

*** PER REQUIREMENTS OF ASHRAE STANDARD 52 IN WAC 248-18-99902(14).

****99.97 PERCENT EFFICIENCY FOR RECIRCULATING AIR IN OPERATION ROOMS - REFERENCE TABLE B.

(iii) FILTER FRAMES WITH AIRTIGHT SEAL TO THE ENCLOSING DUCTWORK BY USE OF GASKETS OR EQUIVALENT.

(iv) A MANOMETER SHALL BE INSTALLED ACROSS EACH FILTER BED SERVING SENSITIVE AREAS (Refer to Table A) OR CENTRAL AIR SYSTEMS.

(g) NONCENTRAL SUPPLY VENTILATION SYSTEMS, i.e., fan coil units or equivalent individual room units.

(i) IN SENSITIVE AREAS (Refer to Table A) SHALL MEET THE FILTERING OBJECTIVES FOR CENTRAL SYSTEMS.

(ii) IN AREAS OTHER THAN SENSITIVE AREAS OUTDOOR AIR FOR INDIVIDUAL ROOM UNITS SHALL MEET FILTERING REQUIREMENTS FOR CENTRAL SYSTEMS UNDER TABLE A. RECIRCULATED AIR TO INDIVIDUAL ROOM UNITS NEED NOT BE FILTERED (lint screen and/or filter recommended).

(h) AIR HANDLING DUCT SYSTEMS.

(i) IN ACCORDANCE WITH NATIONAL FIRE PROTECTION ASSOCIATION 90A. SEE WAC 248-18-99902(5).

(ii) BUILDING CEILING SPACES USED FOR EXHAUST PLENUMS SHALL BE RESTRICTED TO ADMINISTRATIVE, PUBLIC WAITING, AND PUBLIC MEETING AREAS. May be permitted in other areas only upon written approval of such use by the department.

(iii) NONEROSIVE WEARING SURFACES ARE REQUIRED FOR FIBERGLASS SUPPLY DUCTS (PER UL STANDARDS ((18+15)) 181 IN WAC 248-18-99902(9)) AND/OR "DUCT LINER APPLICATION STANDARD" PER SMACNA. SEE WAC 248-18-99902(10), IF INSTALLED.

(iv) NINETY PERCENT EFFICIENCY FILTERS DOWNSTREAM OF LININGS SERVING SENSITIVE AREAS (Refer to Table A) EXCEPT LINING OF TERMINAL UNITS MEETING THE REQUIREMENTS OF SUBSECTION (8)(h)(iii) of this section.

(i) AIR SUPPLY AND EXHAUSTS LOCATIONS CONFORM TO UNIFORM MECHANICAL CODE WITH ADDITIONAL REQUIREMENTS. SEE WAC 248-18-99902(8).

(i) AIR SUPPLY INTAKES LOCATED TO ENSURE A SOURCE OF FRESH AIR (preferably above the roof or high on an exterior wall to avoid sources of contamination or pollution).

(ii) EXHAUST AIR DISCHARGE LOCATED TO AVOID CROSS CIRCULATION TO SUPPLY AIR INTAKES OR OPERABLE WINDOWS. Separation distances dependent upon factors such as air volumes, wind directions, and building configurations.

(j) OPERATING ROOMS, DELIVERY ROOMS, NEWBORN NURSERY ROOMS, NEONATAL INTENSIVE CARE UNITS AND THEIR ANCILLARY FACILITIES MECHANICALLY VENTILATED TO PROVIDE ONE HUNDRED PERCENT FRESH AIR WITHOUT RECIRCULATION EXCEPT AS PROVIDED IN TABLE B. Recommended for birthing rooms, labor rooms, recovery rooms, and all intensive care units. Refer to Table B.

(k) VENTILATION SYSTEMS FOR ANESTHETIZING LOCATIONS USING FLAMMABLE ANESTHETICS SHALL MEET THE REQUIREMENTS OF THE NATIONAL FIRE PROTECTION ASSOCIATION, (NFPA), 99. SEE WAC 248-18-99902(1).

(l) AIR CONDITIONING TO ADEQUATELY CONTROL TEMPERATURE, AIR CHANGES AND AIR MOTION OF OPERATING ROOMS, DELIVERY ROOMS, SPECIAL PROCEDURE ROOMS, RECOVERY ROOM, NEWBORN NURSERY FACILITIES, NEONATAL INTENSIVE CARE NURSERY ROOMS, INTENSIVE CARE, AND CARDIAC INTENSIVE CARE UNITS. Recommended in all patient care areas.

(m) RELATIVE HUMIDITY.

(i) OPERATING ROOMS, DELIVERY ROOMS, SPECIAL PROCEDURE ROOMS, ANESTHETIZING LOCATIONS, INTENSIVE CARE PATIENT ROOMS, AND RECOVERY ROOMS, FORTY PERCENT MINIMUM TO SIXTY PERCENT MAXIMUM AT SEVENTY-TWO DEGREES FAHRENHEIT.

(ii) NEWBORN NURSERY FACILITIES AND NEONATAL INTENSIVE CARE ROOMS, FORTY-FIVE PERCENT MINIMUM TO SIXTY PERCENT MAXIMUM AT SEVENTY-FIVE DEGREES FAHRENHEIT.

(n) FIRE SHUTDOWN, AS REQUIRED BY NATIONAL FIRE PROTECTION ASSOCIATION 90A, BY BOTH MANUAL CONTROL AND EITHER OF THE FOLLOWING OPTIONS FOR AUTOMATIC SHUTDOWN (SEE WAC 248-18-99902(5)):

(i) TOTAL SHUTDOWN BY AUTOMATIC CONTROLS FOR SOUNDING FIRE ALARM, CLOSING SMOKE DOORS AND SMOKE DAMPERS IN VENTILATION SYSTEM, AND SHUTTING DOWN SUPPLY FAN OR FANS AND EXHAUST FAN OR FANS.

(ii) SELECTIVE SHUTDOWN BY AUTOMATIC CONTROLS FOR SOUNDING FIRE ALARM, CLOSING SMOKE DOORS, AND ACTUATING ONLY SMOKE DAMPERS IN RECIRCULATION SYSTEM TO EXHAUST ALL RECIRCULATED AIR. ONLY THE SMOKE DETECTOR ON THE DOWNSTREAM SIDE OF THE LAST COMPONENT OF THE CENTRAL SUPPLY SYSTEM SHALL SHUT DOWN THE SUPPLY AND EXHAUST VENTILATION SYSTEMS AND SHALL CLOSE ALL SMOKE DAMPERS. This selective shutdown option is recommended for hospitals having multiventilation systems.

(o) VENTILATION REQUIREMENTS ARE SUMMARIZED IN TABLE B FOR TYPICAL HOSPITAL AREAS. THOSE AREAS NOT SPECIFICALLY DESIGNATED SHALL COMPLY WITH REQUIREMENTS FOR COMPARABLE AREAS.

TABLE B GENERAL PRESSURE RELATIONSHIPS AND VENTILATION⁶ OF CERTAIN HOSPITAL AREAS

AREA DESIGNATION	PRESSURE RELATIONSHIP TO ADJACENT AREAS ¹⁰	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR SUPPLIED TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR SUPPLIED TO ROOM ⁸	ALL AIR EXHAUSTED DIRECTLY TO OUTDOORS	RECIRCULATED WITHIN ROOM UNITS
A. ANESTHETIZING AREAS					
1. Delivery and Operating Rooms	pp ¹	15	15 ⁵	Yes	No ⁹
2. Dental Operating Rooms	P	8	8	Yes	No
3. Endoscopy Room	P	8	8	Yes	No
4. Emergency Major Treatment Rooms	N	5	12	Yes	No
5. Outpatient Operating and/or Treatment Rooms	pp ¹	5	15 ⁴	Yes	No
6. Special Procedures Rooms (Cardiac Catheterizations)	pp ¹	12	12	Yes	No
B. CENTRAL SERVICE					
1. Cart Wash Room or Area	N	2	10	Yes	No

AREA DESIGNATION	PRESSURE RELATIONSHIP TO ADJACENT AREAS ¹⁰	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR SUPPLIED TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR SUPPLIED TO ROOM ⁸	ALL AIR EXHAUSTED DIRECTLY TO OUTDOORS	RECIRCULATED WITHIN ROOM UNITS
2. Clean & Sterile Storage Room	PP	2	2	Optional	No ³
3. Clean Work Room	P	2	4	Optional	No ³
4. Clean Equipment Storage Room	P	2	2	Optional	Optional
5. Decontamination Area or Room	NN	2	12	Yes	No
6. Sterilizer Access Service Room	NN	Optional	12	Yes	No
7. Sterilizing Area	P	2	4	Optional	No ³
C. GENERAL					
1. Administrative Areas: i.e., Offices, Admitting Facilities, Registration, Staff On-Call Rooms, etc.	P	2	2	Optional	Optional
2. Bathing and Wet Treatment Facilities: i.e., Showers, Tubs, Sitz Baths, Hydrotherapy.	N	2	10	Yes	No
3. Clean Facilities: Utility or Work Rooms, Medicine Preparation Areas, Holding and Storage Rooms.	P	2	4	Optional	No ³
4. Corridors, General Circulating.	P and N ²	2	2	Optional	Optional
5. Entrances	P	Optional	2	Optional	Optional
6. Housekeeping Facilities: i.e., Janitor Closets, Trash Chutes or Trash Storage Rooms	N	Optional	10	Yes	No
7. Lounges, Locker & Dressing Rooms	N	Optional	10	Yes	No
8. Nurses Station & Unit Dose Medicine Cart Areas	P	2	4	Optional	Optional
9. Receiving & Stores Incl. Breakout Area	N	Optional	2	Optional	Optional
10. Scrub-up Area	P	2	2	Optional	No
11. Soiled Facilities: Utility or Work Rooms, Holding, Bedpan, Clean-up, Linen & Storage.	N	2	10	Yes	No
12. Toilet Rooms	N	Optional	10	Yes	No
13. Waiting Rooms, Conference, Solariums, Day Rooms, or Other Smoking Areas.	N	2	2	Yes	No
14. Mechanical Rooms	N	Optional	2	Yes	No
D. KITCHEN AND DIETARY					
1. Bulk Day Food Storage Room	E or P	Optional	2	Optional	Optional
2. Cafeteria or Dining Room	E or N	6	8	Optional	Optional
3. Dishwashing Room or Area	NN	4	8	Yes	No
4. Garbage Storage and Can Washing Area	NN	Optional	10	Yes	No
5. Kitchen	NN	4	8	Yes	No
E. LABORATORY					
1. Autopsy Room and Morgue	NN	2	12	Yes	No
2. Bacteriology	NN	2	12	Yes	No
3. Blood Drawing Area or Room	P	2	4	Optional	Optional
4. General Laboratory Rooms, i.e., Hematology, Pathology.	N	2	10	Yes	No
5. Media Preparation and Transfer Room	P	2	4	Optional	No
6. Decontamination Area	NN	2	12	Yes	No
F. LAUNDRY					
1. Clean Linen Storage	P	2	2	Optional	No ³
2. Clean Sorting, Folding & Ironing	P	2	6	Yes	No ³
3. Detergent & Supply Storage Room	N	Optional	2	Optional	Optional

AREA DESIGNATION	PRESSURE RELATIONSHIP TO ADJACENT AREAS ¹⁰	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR SUPPLIED TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR SUPPLIED TO ROOM ⁸	ALL AIR EXHAUSTED DIRECTLY TO OUTDOORS	RECIRCULATED WITHIN ROOM UNITS
4. Processing, Washing and Drying	P	4	10	Yes	No
5. Soiled Sorting and Storage	N	Optional	10	Yes	No
G. PATIENT CARE AREAS					
1. Acute Cardiac Care and Intensive Care Patient Rooms	PP	2	6 ⁴	Optional	No ^{3, 7}
2.a Birthing Room, High Risk ²⁴	P	6	6 ⁴	Optional	No ⁷
2.b Birthing Room, Low Risk ²⁴	P	2	2 ⁴	Optional	No ⁷
3. Examination Rooms	E or P	2	6	Optional	No ³
4. Electroencephalogram (EEG), Electromyogram (EMG), & Electrocardiogram (ECG or EKG)	E or P	2	6	Optional	Optional
5. Isolation Room, Airborne	NN	2	6	Yes	No ⁶
6. Isolation Room, Protective	P	4	4	Yes	No ⁷
7. Isolation Anteroom	NN	2	10	Yes	No ⁶
8. Isolation Room with Anteroom	Optional	2	6	Yes	No ⁷
9. Labor Room	E or P	2	2 ⁴	Optional	No ³
10. Neonatal Intensive Care Room	PP ¹	6	6 ⁵	Optional	No
11. Newborn Nursery Room	PP ¹	6	6 ⁵	Optional	No
12. Observation Rooms (Outpatient & Emergency Departments)	N	2	6	Yes	No
13. Patient Rooms	E or P	2	2	Optional	Optional
14. Recovery Rooms	PP ¹	2	6 ⁴	Optional	No
15. Physical Therapy Treatment Rooms	N	2	6	Optional	Optional
Hydrotherapy	N	2	10	Yes	No
16. Pulmonary & Inhalation Therapy Treatment Rooms	E or P	2	2	Yes	No
H. PHARMACY					
1. Compounding & Dispensing Areas	P	2	2	Optional	No ³
2. Intravenous Additive Room	PP	2	2	Optional	No ³
I. RADIOLOGY					
1. C.A.T., General & Ultrasound Rooms	E or P	2	6	Optional	Optional
2. Darkroom	N	2	6	Yes	No
3. Film Viewing & Storage Room	E	2	4	Optional	Optional
4. Fluoroscopy Rooms	N	2	6	Yes	No
5. Nuclear Diagnostic Rooms	E or N	2	4	Optional	Optional
6. Radiation Therapy Treatment Rooms	N	2	6	Yes	No
7. Special Procedures Rooms, i.e., Angiography, etc.	P	2	6	Optional	No

CODES

P = POSITIVE
N = NEGATIVE
E = EQUAL

PP = STRONGLY POSITIVE
NN = STRONGLY NEGATIVE

REFERENCE NOTATIONS:

- ¹ THE SEGREGATED SURGICAL, DELIVERY, COMBINED SURGICAL-DELIVERY SUITES, OTHER OPERATING ROOM SUITES, NEONATAL INTENSIVE CARE UNIT, AND THE NEWBORN NURSERY UNIT FACILITIES SHALL BE POSITIVE TO THE OUTSIDE CORRIDOR.
- ² GENERAL CIRCULATING CORRIDORS SHALL BE POSITIVE TO THE EXTERIOR, I.E., ELEVATORS, STAIRWELLS, EXIT DOORS, AND SHALL BE NEGATIVE TO PATIENT ROOMS.
- ³ Recirculating room induction type units meeting the appropriate filtering requirements in Table A, WAC 248-18-718 (8)(g)(ii) are acceptable.
- ⁴ Recommend one hundred percent fresh outdoor air supplied to room.
- ⁵ THESE ROOMS AND THEIR ANCILLARY FACILITIES SHALL BE SUPPLIED WITH ONE HUNDRED PERCENT OUTSIDE (FRESH) AIR.
- ⁶ Heat recovery systems should be utilized for exhaust air.
- ⁷ MAY BE VENTILATED BY TERMINAL REHEAT UNITS IF THE UNITS CONTAIN ONLY A REHEAT COIL AND ONLY THE PRIMARY AIR (SUPPLIED FROM A CENTRAL SYSTEM) PASSES THROUGH THE REHEAT COIL.

- 8 INCLUDES ONLY THE QUANTITIES OF AIR WHICH PASS THROUGH A FILTER BED LISTED IN TABLE A. DOES NOT INCLUDE THE QUANTITY OF SECONDARY AIR ENTERING AN INDUCTION UNIT.
- 9 UNIDIRECTIONAL FLOW RECIRCULATING AIR SYSTEMS CONTAINED WITHIN ROOM UNITS AND MEETING THE FILTERING REQUIREMENTS FOR SENSITIVE AREAS (TABLE A) MAY BE USED.
- 10 Balance for appropriate positive and negative gradients should be evaluated by measuring proper direction of air flow at each doorway by smoke indicator. Designs should be based on anticipated leakage at each door. (Fifty CFM minimum to one hundred CFM maximum for usual room door.)
- 12 In accordance with program.

(9) INCINERATION FACILITIES.

- (a) May be omitted if another approved method of disposal is used.
- (b) INCINERATOR OF ADEQUATE SIZE AND DESIGN. LOCATED AND DESIGNED TO PREVENT OBJECTIONABLE HEAT, SMOKE, AND ODORS. (Separate room or outside area.)
- (c) SUPPLEMENTAL FUEL FIRED FOR COMPLETE COMBUSTION.
- (d) CHUTE-FED INCINERATORS NOT PERMITTED.
- (10) ELECTRICAL SYSTEMS AND EMERGENCY ELECTRICAL SERVICE.
- (a) In addition to specific requirements of this section, codes adopted by the Washington state department of labor and industries should be consulted.
- (b) ELECTRICAL SYSTEMS AND EQUIPMENT IN CONFORMANCE WITH NFPA, 99, (SEE WAC 248-18-99902(1)) IN AREAS WHERE INHALATION ANESTHETICS ARE TO BE USED (such as operating rooms, delivery rooms, and major emergency treatment rooms).
- (c) RECEPTACLE OUTLETS AND CIRCUITS. Placement of convenient receptacle outlets to avoid a need for the use of extension cords.
- (i) MINIMUM OF SIX RECEPTACLE OUTLETS IN OPERATING AND DELIVERY ROOMS; MINIMUM OF FOUR RECEPTACLE OUTLETS IN EMERGENCY TREATMENT ROOMS, BIRTHING ROOMS, ANESTHETIZING LOCATIONS, AND SPECIAL PROCEDURES ROOMS. At least one receptacle outlet on each available wall; ADDITIONAL AS REQUIRED.²⁴
- (ii) AT LEAST TWO DUPLEX ELECTRICAL RECEPTACLES (OR EQUIVALENT) AT THE HEAD OF EACH BED, IN PATIENT ROOMS (INCLUDING LABOR, BIRTHING ROOMS, AND RECOVERY), three duplex receptacles at head of each bed recommended. ONE DUPLEX RECEPTACLE AT HEAD OF EACH BED IN PSYCHIATRIC UNITS.²⁴
- (iii) FOUR DUPLEX ELECTRICAL RECEPTACLES (OR EQUIVALENT) AT THE HEAD OF EACH BED IN INTENSIVE CARE⁴³ PATIENT ROOMS. AT LEAST SIX DUPLEX RECEPTACLES (OR EQUIVALENT)⁴² FOR EACH INFANT STATION IN NEONATAL INTENSIVE CARE UNITS.⁴³
- (iv) AT LEAST ONE DUPLEX RECEPTACLE (OR EQUIVALENT)⁴² FOR EVERY TWO BASSINETS FOR FULL-TERM INFANTS.
- (A) AT LEAST ONE INFANT STATION EQUIPPED WITH THREE DUPLEX RECEPTACLES except when premature nursery provided.
- (B) AT LEAST TWO DUPLEX RECEPTACLES FOR EACH BASSINET AND INCUBATOR FOR PREMATURE INFANTS.
- (v) CIRCUITS SERVING RECEPTACLES AT THE HEAD OF EACH BED IN ALL INTENSIVE CARE UNITS⁴³ SHALL SERVE NO OTHER RECEPTACLES OR OUTLETS.
- (vi) LIMITED TO SIX DUPLEX RECEPTACLES PER TWENTY AMP CIRCUIT IN ALL PATIENT CARE AREAS, INCLUDING OUTPATIENT CARE AREAS. LIMITED TO THREE DUPLEX RECEPTACLES PER TWENTY AMP CIRCUIT SERVING PATIENT BEDS IN ALL INTENSIVE CARE UNITS.⁴³
- (vii) AT LEAST ONE ADDITIONAL DUPLEX RECEPTACLE (OR EQUIVALENT)⁴² AT A SEPARATE CONVENIENT LOCATION IN EACH PATIENT ROOM (INCLUDING LABOR, RECOVERY, AND ALL INTENSIVE CARE ROOMS).⁴³ ADDITIONAL RECEPTACLE IF TELEVISION IS PROVIDED.
- (viii) HOSPITAL GRADE RECEPTACLES IN RECOVERY ROOMS, OTHER THAN HAZARDOUS ANESTHETIZING LOCATIONS, AND ALL INTENSIVE CARE PATIENT ROOMS AND TREATMENT AREAS. Recommended in other patient care areas.
- (ix) RECEPTACLES IN ROOMS USED BY PEDIATRIC OR PSYCHIATRIC PATIENTS SHALL BE A TAMPER-PROOF OR SAFETY TYPE DEVICE. RECEPTACLES IN PSYCHIATRIC SECLUSION AND SECURITY ROOMS PROTECTED BY

GROUND FAULT CIRCUIT INTERRUPTERS AND TAMPER-PROOF SCREWS. Receptacles in seclusion rooms not recommended.

(x) ONE RECEPTACLE OVER OR ADJACENT TO LAVATORY FOR INPATIENT USE, PROTECTED BY GROUND FAULT CIRCUIT INTERRUPTER.

(xi) AT LEAST ONE DUPLEX RECEPTACLE (OR EQUIVALENT)⁴² PER FOUR LINEAR FEET OF COUNTER IN LABORATORY FACILITIES. SURFACE METAL RACEWAYS, IF USED, SHALL INCLUDE AN EQUIPMENT GROUNDING CONDUCTOR CONNECTED TO EACH RECEPTACLE.

(d) LIGHTING FIXTURES.

(i) NUMBER, TYPE, AND LOCATION OF LIGHTING FIXTURES TO PROVIDE ADEQUATE ILLUMINATION FOR THE FUNCTIONS OF EACH AREA PER IES HANDBOOK: APPLICATION VOLUME. SEE WAC 248-18-99902(12).

(ii) READING LIGHT⁶ CONVENIENTLY LOCATED FOR USE BY THE PATIENT AT EACH BED IN PATIENT ROOMS. CONTROL CONVENIENT FOR PATIENT USE. Freestanding bedside lamps not recommended.

(iii) SUITABLE LIGHT AT LAVATORIES IN PATIENT ROOMS AND PATIENT TOILET ROOMS. See "toilet" in IES Handbook: Application Volume, per WAC 248-18-99902(12).

(iv) NIGHT LIGHT FOR EACH BED LOCATED BELOW LEVEL OF BED TO DIMLY LIGHT PATHWAY IN ROOM. NIGHT LIGHTS OR EQUIVALENT LOCATED AT PROPER INTERVALS IN CORRIDOR CEILINGS OR WALLS IN NURSING UNITS. Additional night lights appropriately located in patient rooms installed to avoid discomfort to patients.²⁴

(v) SWITCHES FOR NIGHT LIGHTS AND GENERAL ILLUMINATION ADJACENT TO OPENING SIDE OF DOORS TO PATIENT ROOMS. SWITCHES LOCATED OUTSIDE PSYCHIATRIC PATIENT SECURITY AND SECLUSION ROOMS.

(vi) LIGHTING FIXTURES IN PSYCHIATRIC SECURITY AND SECLUSION ROOMS OF TAMPER-PROOF DESIGN. Recessed type recommended.

(e) BRANCH CIRCUIT PANELS FOR ROOMS IN ALL INTENSIVE CARE UNITS⁴³ TO BE LOCATED IN EACH PATIENT ROOM OR OTHER LOCATION WITHIN THE UNIT PROVIDING READY ACCESSIBILITY TO CIRCUIT BREAKERS FOR STAFF CARING FOR PATIENTS IN THESE ROOMS. CIRCUIT BREAKER AND/OR OUTLET COORDINATION APPROPRIATELY AND CLEARLY IDENTIFIED.

(f) EMERGENCY ELECTRICAL SERVICE. PER NFPA-70. SEE WAC 248-18-99902(13).

(g) Adequate filter protection for electrical generator or generators (e.g., protection from volcanic ash or dust storms).

(11) MISCELLANEOUS.

(a) FILM ILLUMINATORS. AT LEAST TWO X-RAY FILM ILLUMINATORS⁶ IN EACH OPERATING ROOM, NEONATAL INTENSIVE CARE UNIT, ONE IN EACH MAJOR EMERGENCY TREATMENT ROOM, and one in each delivery room.

(b) CALL SYSTEM.

(i) PROPERLY LOCATED ELECTRICAL SIGNALLING DEVICE AT THE HEAD OF EACH BED IN PATIENT ROOMS (INCLUDING LABOR ROOMS AND BIRTHING ROOMS), except optional in ambulatory psychiatric patient rooms, AT EACH WATER CLOSET AND BATHING FACILITY FOR PATIENTS, AT EACH TREATMENT AREA IN PHYSICAL THERAPY DEPARTMENTS, AT EACH PATIENT TREATMENT TABLE, CART, OR BED IN EMERGENCY DEPARTMENTS, and in each dayroom, solarium, dining room or rooms, recovery room, and patient dressing areas.⁵⁵

(ii) EACH CALL SIGNAL TO REGISTER BY LIGHT AT THE CORRIDOR DOOR, AND BY LIGHT AND AUDIBLE SIGNAL AT THE NURSES' STATION, AND AT OTHER NURSES' WORK STATIONS SUCH AS UTILITY ROOMS, MEDICATION ROOMS, NOURISHMENT ROOMS, and nurses' lounges. CALL SIGNALS INITIATED WITHIN OTHER DEPARTMENTS (such

as x-ray and physical therapy) TO REGISTER AT THE CONTROL POINT OF EACH DEPARTMENT. SIGNALS FROM WATER CLOSETS AND BATHING FACILITIES TO HAVE DISTINCTIVE LIGHT (flashing lights) AND AUDIBLE SIGNAL.

(iii) MEDICAL EMERGENCY SIGNAL DEVICE FOR USE OF THE STAFF IN EACH PSYCHIATRIC PATIENT, ACTIVITY, SECURITY, AND SECLUSION ROOM; EACH OPERATING, DELIVERY, BIRTHING, AND NURSERY ROOM; RECOVERY ROOMS; EACH PATIENT AND TREATMENT ROOM IN ALL INTENSIVE CARE UNITS; IN EACH EMERGENCY TREATMENT, EXAMINATION, AND OBSERVATION ROOM. TO REGISTER BY DISTINCTIVE LIGHT AT THE CORRIDOR DOOR, BY DISTINCTIVE VISUAL AND AUDIBLE SIGNALS AT LOCATIONS FROM WHICH ADDITIONAL ASSISTANCE IS ALWAYS AVAILABLE; WHEN CORRIDOR LIGHT NOT VISIBLE FROM NURSES' STATION, ANNUNCIATOR OR EQUIVALENT SHALL IDENTIFY POINT OF ORIGIN. SIGNAL DEVICE TO BE RESET ONLY BY STAFF AT POINT OF ORIGIN.

(iv) A CALL SIGNAL FOR NIGHT USE SHALL BE PROVIDED AT LOCKED EMERGENCY ENTRANCES.

(c) TELEPHONES.

(i) ON EACH NURSING UNIT, SURGICAL SUITE, OBSTETRICAL DELIVERY SUITE, AND RECOVERY ROOM. ADDITIONAL TELEPHONES OR EXTENSIONS AS REQUIRED TO PROVIDE ADEQUATE COMMUNICATION (A MINIMUM OF ONE ON EACH FLOOR OF THE HOSPITAL).

(ii) PUBLIC TELEPHONE IN LOBBY.

(iii) Telephones or other similar means for two-way communication among departments of the hospital, including doctors' locker, and lounge in surgery and delivery suites.

(d) CLOCKS. May be battery powered, solid state type.

(i) WALL MOUNTED CLOCKS PROPERLY LOCATED IN OPERATING ROOMS, DELIVERY ROOMS, RECOVERY ROOMS, BIRTHING ROOMS, EMERGENCY TREATMENT ROOMS, NURSERIES, INTENSIVE CARE UNITS, AND LABORATORIES.

(ii) CLOCKS IN OPERATING ROOMS, DELIVERY ROOMS, RECOVERY ROOMS, EMERGENCY TREATMENT ROOMS, AND ALL INTENSIVE CARE UNITS TO HAVE SWEEP SECOND HANDS OR EQUIVALENT. Interval timers recommended.

(e) EQUIPMENT AND CASEWORK.

(i) DESIGNED, MANUFACTURED, AND INSTALLED FOR EASE OF PROPER CLEANING AND MAINTENANCE OF EQUIPMENT AND CASEWORK, AND SURROUNDING FLOOR AND WALLS.

(ii) DESIGN, MATERIALS, AND FINISHES SUITABLE TO THE FUNCTIONS OF EACH AREA.

(iii) EQUIPMENT FOR FOOD SERVICE FUNCTIONS TO MEET STANDARDS OF NATIONAL SANITATION FOUNDATION, OR EQUIVALENT. SEE WAC 248-18-99902(6).

(iv) ALL AUTOCLAVES TO HAVE RECORDING THERMOMETERS.

(f) Chutes.

(i) Linen chutes and trash chutes not recommended.

(ii) CHUTES DIRECTLY CONNECTED TO INCINERATORS NOT PERMITTED.

(iii) CYLINDRICAL DESIGN.

(iv) TWENTY-FOUR INCH MINIMUM DIAMETER.

(v) SMOOTH, WASHABLE INTERIOR FINISH, INCLUDING JOINTS.

(vi) SELF-CLOSING, TIGHT-FITTING ACCESS DOORS AT LEAST THIRTY INCHES FROM THE FLOOR.

(vii) ACCESS DOOR OR DOORS IN SEPARATE ENCLOSED ROOM OR ROOMS OR SEPARATE AREA OF SOILED UTILITY OR CLEAN-UP ROOM USED FOR SOILED FUNCTIONS ONLY OR OTHER SIMILAR ROOM.

(viii) CHUTES TO DISCHARGE INTO SEPARATE ENCLOSED TRASH AND SOILED LINEN COLLECTION ROOMS.

(A) FLOOR DRAINS EQUIPPED WITH TRAP PRIMERS IN TRASH AND SOILED LINEN COLLECTION ROOMS.

(B) HANDWASHING FACILITY IN OR ADJACENT TO SOILED LINEN COLLECTION ROOM IF THIS ROOM USED FOR SORTING SOILED LINEN.

(ix) CHUTES DESIGNED AND VENTILATED TO AVOID CONTAMINATION BY AIR FLOW FROM ACCESS DOORS WHEN OPENED.

(x) CHUTES PROVIDED WITH SUITABLE MEANS TO ADEQUATELY WASH ENTIRE LENGTH.

(g) HARDWARE.

(i) SELECTED TO SUIT THE FUNCTIONS OF EACH ROOM AND TO ENSURE EGRESS, QUIETNESS, AND SANITATION.

(ii) PATIENT ROOM DOORS DESIGNED TO HOLD AT FULL OPEN POSITION.

(iii) PROVISION FOR IMMEDIATE EMERGENCY ACCESS TO PATIENT ROOMS AND PATIENT TOILETS, SHOWERS, AND BATHROOMS.

(iv) HARDWARE OF EXTERIOR DOORS DESIGNED TO PREVENT ENTRY OF UNAUTHORIZED PERSONS.

(h) IDENTIFICATION OF DOORS, ROOMS, AND SPACES.²⁴

Notes:

⁶ May be movable equipment.

²⁴ In accordance with program.

³⁷ See definition of "grade," WAC 248-18-001.

⁴¹ Equivalent when used in reference to faucet controls means a mechanism for operating without the use of hands, wrists, or arms.

⁴² Equivalent when used in reference to receptacle outlets means that two single receptacle outlets are considered to be equal to one duplex receptacle outlet.

⁴³ Refer to definitions of intensive care unit WAC 248-18-001(26), acute cardiac care unit WAC 248-18-001(3), and neonatal intensive care unit WAC 248-18-223 (1)(c) and (d), and 248-18-001(37).

⁴⁹ Compressed air is filtered air free of oil and other substances, particles, or contaminants.

⁵⁰ Equivalent for x-ray receptacle outlet or outlets refer to a battery-operated, self-contained x-ray machine.

⁵⁵ A PROPERLY LOCATED SIGNAL DEVICE WITHIN REACH OF STAFF, MOUNTED NO HIGHER THAN SIX FEET ABOVE THE FLOOR AND ACTIVATED BY A NONCONDUCTIVE PULL CORD AT WATER CLOSETS AND BATHING FACILITIES. AT BATHING FACILITIES, SIGNAL DEVICE CORD LOCATED FOR EASY GRASP BY PATIENT IN OR ON FLOOR BESIDE BATHING FACILITY. AT WATER CLOSET, SIGNAL DEVICE PULL CORD LOCATED FOR EASY GRASP BY PATIENT SLUMPED FORWARD ON WATER CLOSET OR ON FLOOR NEARBY.

AMENDATORY SECTION (Amending Order 2466, filed 2/4/87)

WAC 248-18-99902 APPENDIX B—DATES OF DOCUMENTS ADOPTED BY REFERENCE IN CHAPTER 248-18 WAC. (1) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA), 99, Chapter ((3-1984)) 12, 1987.

(2) Use of the guide, published by the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), recommended for design of heating and ventilating systems. ASHRAE Handbook series - five volumes: ((1982)) 1987 HVAC Systems and Applications; 1983 Equipment; ((1984-Systems;)) 1985 Fundamentals; 1986 Refrigeration.

(3) UNIFORM PLUMBING CODE, International Association of Plumbing and Mechanical Officials (IAPMO), 1985 edition.

(4) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA), ((56F-1983)) 99, Chapter 4, 1987.

(5) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA), 90A-1985.

(6) Food Service Equipment Standards of the National Sanitation Foundation, ((1984;)) NSF Bldg., P.O. Box 1468, Ann Arbor, Michigan 48106.

(7) Recommend use of the following standards:

(a) "Classification of Etiologic Agents on the Basis of Hazard" United States Department of Health and Human Services Publication

Public Health Service
Centers for Disease Control
Office of Biosafety
Atlanta, Georgia 30333

(b) "Selecting a Biological Safety Cabinet" United States Department of Health and Human Services
Public Health Service

National Institutes of Health
National Cancer Institute
Office of Research Safety
Bethesda, Maryland 20014

(c) For the design, construction, and performance of "Class II Biohazard Cabinetry NSF No. 49" National Science Foundation

- NSF Building
Ann Arbor, Michigan 48105
- (8) UNIFORM MECHANICAL CODE (UMC), International Association of Plumbing and Mechanical Officials (IAPMO), 1985 edition.
- (9) UNDERWRITERS LABORATORIES (UL), ((+81-15)) 181 Factory Made Air Ducts and Connectors, ((+1981)) 1984 edition.
- (10) SHEET METAL AND AIR CONDITIONING CONTRACTORS' NATIONAL ASSOCIATION, INC., (SMACNA), Duct Liner Application Standard, ((Second edition, 1975)) 1985.
- (11) Compressed Gas Association, Inc., Pamphlet Number P-2.1-1983, "Recommendations for Medical-Surgical Vacuum Systems," 1983 edition.
- (12) Illuminating Engineers Lighting Handbook (IES), ((+1984)) 1987 Application Volume.
- (13) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 70-1987.
- (14) METHOD OF TESTING AIR-CLEANING DEVICES USED IN GENERAL VENTILATION FOR REMOVING PARTICULATE MATTER, ((+)) American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), Standard 52-76, 1976 edition.
- (15) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) ((30-1984)) 30-1987.
- (16) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 99, CHAPTER 7, ((+1984)) 1987.
- (17) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) ((43C-1980)) 43C-1986.
- (18) NATIONAL COUNCIL ON RADIATION PROTECTION HANDBOOK NO. 49.

WSR 88-12-087
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2629—Filed June 1, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to IMR program and reimbursement system, amending chapter 275-38 WAC.

This action is taken pursuant to Notice No. WSR 88-07-122 filed with the code reviser on March 23, 1988. 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 74.09.120 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 June 1, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2213, filed 3/6/85)

WAC 275-38-001 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" – A method of accounting where revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period incurred, regardless of when paid.

(2) "Active treatment in institutions for the mentally retarded" requires the following:

(a) The individual's regular participation, in accordance with an individual habilitation plan, in professionally developed and supervised activities, experiences, or therapies.

(b) A written individual habilitation plan setting forth measurable goals or objectives stated in terms of desirable behavior and prescribing an integrated program of activities, experiences, or therapies necessary for the individual to reach the goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he or she can presently or potentially achieve.

(c) An interdisciplinary professional evaluation:

(i) Completed, for a recipient, before admission to the institution but not more than three months before, and for an individual applying for Medicaid after admission, before the institution requests payment;

(ii) Consisting of complete medical, social, psychological diagnosis and evaluations, and an evaluation of the individual's need for institutional care; and

(iii) Made by a physician, a social worker, and other professionals, at least one of whom is a qualified mental retardation professional.

(d) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. The reevaluation must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of his or her continuing need for institutional care, and consideration of alternate methods of care.

(e) An individual post-institutionalization plan, as part of the individual plan of care, developed before discharge by a qualified mental retardation professional and other appropriate professionals.

(3) "Administration and management" – Activities employed to maintain, control, and evaluate the efforts and resources of a facility or organization for the accomplishment of the objectives and policies of that facility or organization.

(4) "Allowable costs" – See WAC 275-38-680.

((+4)) (5) "Appraisal" – The process of establishing the fair market value or reconstruction of the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American Institute of Real Estate Appraisers as a member, appraisal institute (MAI), or by the Society of Real Estate Appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The process includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

((+5)) (6) "Arm's-length transaction" – A transaction resulting from good-faith bargaining between a

buyer and seller ~~((, where neither party is legally related to the other party by blood or under law, and having))~~ who have adverse positions in the market place. Sales or exchanges of IMR or nursing home facilities among two or more parties where all parties subsequently continue to own one or more of the facilities involved in the transaction shall not be considered arm's-length transactions. Sale of an IMR facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered an arm's-length transaction for purposes of chapter 275-38 WAC.

~~((6))~~ (7) "Assets" - Economic resources of the contractor, recognized, and measured in conformity with generally accepted accounting principles. Assets also include certain deferred charges which are not resources but which are recognized and measured in accordance with generally accepted accounting principles. The value of assets acquired in a change of ownership entered into after September 30, 1984, shall not exceed the acquisition cost of the owner of record as of July 18, 1984.

~~((7))~~ (8) "Bad debts" - Amounts considered to be uncollectable from accounts and notes receivable.

~~((8))~~ (9) "Beds" - Unless otherwise specified, the number of set-up beds in the IMR facility, not to exceed the number of licensed beds.

~~((9))~~ (10) "Beneficial owner" - Any person:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power including the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power including the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection ~~((9))~~ (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except, any person acquiring an ownership interest or power specified in subsection ~~((9))~~ (10)(c)(i), (ii), or (iii) of this section ~~((with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition))~~ shall be deemed to be the beneficial owner of the ownership interest acquired through the exercise or conversion of such ownership interest or power.

(d) Any person who in the ordinary course of business ~~((having))~~ is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest ~~((until))~~ except under the following conditions:

(i) The pledgee ~~((has taken))~~ shall take all formal steps necessary and be required to:

(A) Declare a default and determine the power to vote; or ~~((to))~~

(B) Direct the vote; or ~~((to))~~

(C) Dispose or ~~((to))~~ direct the disposition of how such pledged ownership interest will be exercised ~~((: PROVIDED, That (i))); and~~

(ii) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including any transaction with persons ~~((meeting))~~ who meet the conditions set forth in subsection ~~((9))~~ (10)(b) of this section; and

~~((ii))~~ (iii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct ~~((or to direct))~~ the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement where credit is extended and where the pledgee is a broker or dealer.

~~((10))~~ (11) "Boarding home" - Means any home or other institution licensed in accordance with chapter 18-20 RCW.

~~((11))~~ (12) "Capitalization" - The recording of an expenditure as an asset.

~~((12))~~ (13) "Capitalized lease" - A lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

~~((13))~~ (14) "Cash method of accounting" - A method of accounting where revenues are recognized only when cash is received, and expenditures are expensed, and asset items are not recorded until cash is disbursed.

~~((14))~~ (15) "Change of ownership" - A change in the individual or legal organization responsible for the daily operation of an IMR facility.

(a) Events changing ownership include but are not limited to the following:

(i) The form of legal organization of the owner is changed (such as a sole proprietor forms a partnership or corporation);

(ii) Title to the IMR enterprise is transferred by the contractor to another party;

(iii) The IMR facility is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs dissolving the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following occurs:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, (i.e., subject to the contractor's general approval of daily operating decisions);

(ii) If the contractor is a corporation, some or all of ~~((the corporation's))~~ its stock is transferred.

~~((15))~~ (16) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a resident.

~~((16))~~ (17) "Contract" – A contract between the department and a contractor for the delivery of IMR services to eligible Medicaid recipients ~~((in a facility and an entity responsible for operational decisions))~~.

~~((17))~~ (18) "Contractor" – An entity contracting with the department to deliver IMR services to eligible Medicaid recipients.

~~((18))~~ (19) "Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

~~((19))~~ (20) "CSO" – The local community services office of the department.

~~((20))~~ (21) "DDD" – The division of developmental disabilities of the department.

~~((21))~~ (22) "Department" – The department of social and health services (DSHS) and employees.

~~((22))~~ (23) "Depreciation" – The systematic distribution of the cost or other base of a tangible asset, less any salvage, over the estimated useful life of the asset.

~~((23))~~ (24) "Donated asset" – An asset the contractor acquired without making any payment in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

~~((24))~~ (25) "Entity" – An individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering enforceable contracts.

~~((25))~~ (26) "Equity capital" – Total tangible and other assets necessary, ordinary, and related to ~~((patient))~~ resident care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

~~((26))~~ (27) "Facility" – A residential setting certified as an IMR by the department in accordance with federal regulations. A state facility is a state-owned and operated residential habilitation center. A nonstate facility is a residential setting ~~((which is not owned and operated by the state and which is))~~ licensed in accordance with chapter 18.51 RCW as a nursing home or chapter 18.20 RCW as a boarding home.

~~((27))~~ (28) "Fair market value" – The price the asset would have been purchased for on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

~~((28))~~ (29) "Financial statements" – Statements prepared and presented in conformity with generally accepted accounting principles and this chapter including,

but not limited to, balance sheet, statements of operations, statements of changes in financial position, and related notes.

~~((30))~~ (30) "Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

~~((29))~~ (31) "Generally accepted accounting principles" – Accounting principles currently approved by the financial accounting standard board (FASB).

~~((30))~~ (32) "Generally accepted auditing standards" – Auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(33) "Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable ~~((and)),~~ tangible, and intangible assets acquired. Also, the excess of the price paid for an asset over fair market value.

~~((31))~~ (34) "Habilitative services" – Those services required by the individual habilitation plan provided or directed by qualified therapists.

~~((32))~~ (35) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

~~((33))~~ (36) "Imprest fund" – A fund regularly replenished in exactly the amount expended from the fund.

~~((34))~~ (37) "IMR" – When referring to a facility, one certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, IMR is a range of services required for the mentally retarded or persons with related conditions. When referring to a person, a recipient requiring IMR services.

~~((35))~~ (38) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

~~((36))~~ (39) "Joint facility costs" – Any costs representing expenses incurred benefiting more than one facility, or one facility and any other entity.

~~((37))~~ (40) "Lease agreement" – A contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

(41) "Levels of care" – The classification of levels of services provided to residents by a contractor, (e.g., levels A, B, C, D, and E).

~~((38))~~ (42) "Medicaid program" – The state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

~~((39))~~ (43) "Medical assistance recipient" – An individual determined eligible for medical assistance by the department for the services provided in chapter 74.09 RCW.

~~((40))~~ (44) "Modified accrual method of accounting" – A method of accounting in which revenues are recognized only when cash is received, and expenses are reported in the period in which incurred, regardless of when paid.

(45) "Net book value" – The historical cost of an asset less accumulated depreciation.

(46) "Nonallowable costs" – Same as "unallowable costs."

~~((41))~~ (47) "Nonrestricted funds" – Donated funds not restricted to a specific use by the donor, (e.g., general operating funds).

~~((42))~~ (48) "Nursing home" – A home, place, or institution, licensed in accordance with chapter 18.51 RCW, where skilled nursing, intermediate care, and/or IMR services are delivered.

~~((43))~~ (49) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

~~((44))~~ (50) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

~~((45))~~ (51) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form such beneficial ownership takes.

~~((46))~~ (52) "Per diem (per resident day) costs" – Total allowable costs for a fiscal period divided by total resident days for the same period.

~~((47))~~ (53) "Prospective daily payment rate" – The daily amount ~~((assigned))~~ the department assigns to each contractor~~((determined by the department to be reasonable to meet the costs of))~~ for providing services ~~((required by law if the contractor provides those services in an economical and efficient manner))~~ to IMR residents. ~~((Such a))~~ The rate is ~~((a budget for))~~ used to compute the maximum ~~((expenditures necessary to provide services required by law))~~ participation of the department in the contractor's costs.

~~((48))~~ (54) "Qualified mental retardation professional (QMRP)" – A therapist approved by the department having specialized training and one year's experience in working with the mentally retarded or developmentally disabled.

~~((49))~~ (55) "Qualified therapist" – Any of the following:

(a) An activities specialist having specialized education, training, or experience as specified by the department.

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience.

(c) A dental hygienist as defined by chapter 18.29 RCW.

(d) A dietitian: Eligible for registration by the American Dietetic Association under requirements in effect on January 17, 1974; or having a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management; having one year supervisory experience in the dietetic service of a health care institution; and participating annually in continuing dietetic education.

(e) An occupational therapist being a graduate of a program in occupational therapy, or having the equivalent of such education or training, and meeting all requirements of state law.

(f) A pharmacist as defined by chapter 18.64 RCW.

(g) A physical therapist as defined by chapter 18.74 RCW.

(h) A physician as defined by chapter 18.71 RCW or an osteopathic physician as defined by chapter 18.57 RCW.

(i) A psychologist as defined by chapter 18.83 RCW.

(j) A qualified mental retardation professional.

(k) A registered nurse as defined by chapter 18.88 RCW.

(l) A social worker who is a graduate of a school of social work.

(m) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience.

~~((50))~~ (56) "Recipient" – An eligible medical care recipient.

~~((51))~~ (57) "Regression analysis" – A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

~~((52))~~ (58) "Regional services" – Local office division of developmental disabilities.

~~((53))~~ (59) "Related organization" – An entity which is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if one entity has a five percent or greater ownership interest in the other, or if an entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

~~((54))~~ (60) "Relative" – Spouse; natural parent, child, or sibling; adopted child or adoptive parent; step-parent, stepchild, stepbrother, stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece, or cousin.

~~((55))~~ (61) "Resident day" – A calendar day of resident care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the resident was admitted on the same day. A resident is admitted for purposes of this definition when he or she is assigned a bed and a resident record is opened.

~~((56))~~ (62) "Resident living staff (also known as resident care and training staff)" – Staff whose primary responsibility is the care and development of the residents, including:

(a) Resident activity program;

(b) Domiciliary services; and/or

(c) Habilitative services under the supervision of the QMRP.

~~((57))~~ (63) "Restricted fund" – A fund where the use of the principal and/or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

~~((58))~~ (64) "Secretary" – The secretary of DSHS.

~~((59))~~ (65) "Start-up costs" – The one-time pre-opening costs incurred from the time preparation begins on a newly constructed or purchased building until the first resident is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start-up costs do not include expenditures for capital assets.

~~((60))~~ (66) "Title XIX" – The 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

~~((61))~~ (67) "Unallowable costs" – Costs not meeting every test of an allowable cost, as determined in WAC 275-38-680.

~~((62))~~ (68) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

~~((63))~~ (69) "Vendor number (also known as provider number)" – A number assigned to each contractor delivering IMR services to IMR Medicaid recipients.

~~((64))~~ (70) "Working capital" – Total current assets necessary, ordinary, and related to resident care as reported in the most recent cost report minus total current liabilities necessary, ordinary, and related to resident care from the most recent cost report.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-005 IMR CARE. (1) The department has the administrative and legal responsibility to purchase the services of an institution for the mentally retarded and persons with similar conditions (IMR), and IMR-based services for eligible developmentally disabled persons. The department has the responsibility to assure adequate care, service, and protection are provided through licensing and certification procedures.

(2) The intent of this chapter is to establish standards for habilitative training, health related care, supervision, and residential services to eligible persons.

(3) Each state and nonstate IMR facility shall be certified as a Title XIX IMR facility.

(4) Each nonstate IMR facility with a certified capacity of sixteen beds or more shall be ~~((certified and/or))~~ licensed as a nursing home in accordance with chapter 18.51 RCW.

(5) Each ~~((private))~~ nonstate IMR facility with a certified capacity of fifteen beds or less shall be licensed as a boarding home for the aged in accordance with chapter 18.20 RCW.

(6) Facilities certified to provide IMR services must comply with all applicable federal regulations under Title XIX, Section 1905 of the Social Security Act 42 U.S.C. as amended, as well as state regulations governing the licensing of nursing homes or boarding homes for the aged, and other relevant state regulations.

(7) The sections of this chapter will supersede and replace any and all sections affecting IMR facilities or programs in chapters 388-88 and 388-96 WAC except where specifically referenced in this chapter.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-520 PROJECTED BUDGET FOR NEW CONTRACTORS. (1) Unless a shorter period is approved by the division director, each new contractor shall submit a one-year projected budget to the department at least sixty days before the contract will become effective. For purposes of this section, a "new contractor" is one:

(a) Operating a new facility;

(b) Acquiring or assuming responsibility for operating an existing facility;

(c) Obtaining a certificate of need approval due to an addition to or renovation of a facility.

(2) The projected budget shall cover the twelve months immediately following the date the contractor will enter the program. The projected budget shall be prepared on forms and in accordance with instructions provided by the department, and shall include all earnest money, purchase, and lease agreements involved in the transaction.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-525 CHANGE OF OWNERSHIP. (1) On the effective date of a change of ownership, as defined in WAC 275-38-001, the department's contract with the former owner shall be terminated. The former owner shall give the department ~~((thirty))~~ sixty days written notice of such termination in accordance with the terms of the contract. When certificate of need is required for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need shall be obtained before the former owner submits a notice of termination.

(2) If the new contractor desires to participate in the cost-related reimbursement system, the contractor shall meet the conditions specified in WAC 275-38-515, and shall submit a projected budget in accordance with WAC 275-38-520 ~~((no later than sixty days before the date of the change of ownership))~~. The IMR contract with the new owner shall be effective as of the date of the change of ownership.

(3) A new contractor shall submit the following as a part of the projected budget:

(a) A statement disclosing the identity of all individuals and organizations having beneficial ownership interest in the current operating entity or in the land, building, or equipment of the facility; and

(b) The identity of individuals or organizations having beneficial ownership in the purchasing or leasing entity.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-530 TERMINATION OF CONTRACT. (1) When a contract is terminated for any reason, the former contractor shall ((submit final reports in accordance with WAC 275-38-575. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final annual report, and final settlement has been determined)) give the department sixty days written notice of such termination in accordance with the terms of the contract.

(2) ((Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor, after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with WAC 275-38-940, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor)) When a contractor terminates for any reason, the former contractor shall submit final reports in accordance with WAC 275-38-546.

(3) ((The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a reputable bonding company and acceptable to the department is filed by the contractor. The bond shall:

(a) Be in an amount equal to the released payment;

(b)) Upon notification of a contract termination, the department shall determine by preliminary or final settlement calculations the amount of any overpayments made to the contractor, including overpayments disputed by the contractor. If preliminary or final settlements are unavailable for any period up to the date of contract termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The department shall base a reasonable estimate upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department.

(4) Payments for one or more months for care provided under a contract will be held until the former contractor has filed a properly completed final annual cost report, and the final settlement has been determined. In lieu of the withheld payments, the former contractor may provide security, in a form acceptable to the department, in the amount of determined and estimated overpayments, whether or not the overpayments are the subject of good-faith dispute. Security shall consist of:

(a) A surety bond issued by a bonding company acceptable to the department; or

(b) An assignment of funds to the department; or

(c) Collateral acceptable to the department; or

(d) A purchaser's assumption of liability for the prior contractor's overpayment; or

(e) Any combination of (4)(a), (b), (c), or (d) of this subsection.

(5) A surety bond or assignment of funds shall:

(a) Be at least equal in amount to determined or estimated overpayments, whether or not the subject of good-faith dispute, minus withheld payments;

(b) Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;

(c) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies: PROVIDED, That the bond or assignment shall initially be for a term of five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining overpayment in dispute;

((e)) (d) Provide the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final ((annual)) cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the ((department's)) auditor((s)); and

((d)) (e) Provide an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond((;)) and assignment. The bond or assignment or both shall be paid to the department ((in the event)) if the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

((4) If a contract is terminated solely in order for the same owner to contract with the department to deliver IMR services to a different class of medical care recipients at the same IMR facility, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5)) (6) The department shall release any payment withheld as security if alternate security, acceptable to the department, is provided under subsection (4) of this section in an amount equivalent to determined and estimated overpayments.

(7) If the total of withheld payments, bonds, and assignments is less than the total of determined and estimated overpayments, the unsecured amount of such overpayments shall be a debt due the state. The debt shall become a lien against the real and personal property of the contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property. Such a lien claim has preference over the claims of all unsecured creditors.

(8) The contractor shall file a properly completed final cost report in accordance with the requirements of chapter 275-38 WAC, which may be audited by the department. A final settlement shall be determined within ninety days following completion of the audit process (including any administrative review of the audit requested by the contractor) or within twelve months if audit is not performed.

(9) Following determination of settlement for all periods, security held pursuant to this section shall be released to the contractor after overpayments determined in connection with final settlement have been paid by the contractor. If the contractor contests the settlement termination in accordance with WAC 275-38-886, the

department shall hold the security, not to exceed the amount of estimated unrecovered overpayments being contested, pending completion of the administrative appeal process.

(10) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(11) The department may accept an assignment of funds if the assignment meets the requirements of subsection (4) of this section.

(12) When a contract is terminated, any accumulated liabilities assumed by a new owner shall be reversed against the appropriate accounts by the contractor.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-535 DUE DATES FOR REPORTS.

(1) Nonstate facilities' annual cost reports for a calendar year shall be submitted by March ~~((31st))~~ 31 of the following year.

(2) State facilities' annual cost reports for a fiscal year shall be submitted by December ~~((31st))~~ 31 of that year.

(3) If a contract is terminated for any reason, the former owner shall submit a final cost report, in addition to any reports due under subsection (1) of this section, within one hundred twenty days after the effective date of termination for the period January 1 of the year of termination through the effective date of termination.

(4) A new contractor shall submit, by March 31 of the following year, a cost report for the period from the effective date of the contract through December 31 of the year the contract was made effective, unless an exception is granted by the division director.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-540 REQUESTS FOR EXTENSIONS. (1) The department, upon a written request setting forth reasons for the necessity of an extension, may grant ~~((a thirty day extension of time))~~ two extensions of up to thirty days each for filing any required report, if the written request is received at least ten days prior to the ~~((expiration))~~ due dates of the ~~((relevant time period))~~ reports.

(2) Extensions shall be granted only if the circumstances stated clearly indicate the due date cannot be met and the circumstances were not foreseeable by the contractor.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-545 REPORTS. (1) ~~((In order for a contractor to receive payments under the cost-related reimbursement system for providing care to IMR residents, an annual report based on the contractor's fiscal~~

~~year shall be submitted to the department))~~ Each non-state contractor shall submit to the department an annual cost report for the period from January 1 through December 31 of the preceding year.

(2) Each ~~((contractor's fiscal year for federal tax and cost reporting purposes shall coincide with the calendar year, except for state-owned and operated IMR facilities whose reporting form shall coincide with the facility's))~~ state facility shall submit to the department an annual cost report for the period from July 1 of the preceding year through June 30 of the current year, i.e., state fiscal year.

NEW SECTION

WAC 275-38-546 FAILURE TO SUBMIT FINAL REPORTS. (1) If a contract is terminated, the former contractor shall submit a final report as required by WAC 275-38-530(2) and 275-38-535(3). The former contractor shall submit final reports to the department within one hundred twenty days after the contract is terminated or prior to the expiration of any department-approved extension granted pursuant to WAC 388-96-107. When the contractor fails to submit a final report, all payments made to the contractor relating to the period for which a report has not been received shall be a debt owed to the department. The contractor shall refund the amount due to the department within thirty days after receiving written demand from the department.

(2) Effective thirty days after written demand for the payment is received by the contractor, interest will begin to accrue on any unpaid balance at the rate of one percent per month.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-550 IMPROPERLY COMPLETED OR LATE REPORTS. (1) For 1981 and subsequent annual cost reporting periods, contractors shall submit an annual report, including the proposed settlement computed by cost center pursuant to WAC ~~((275-38-630))~~ 275-38-886, ~~((must be completed))~~ in accordance with ~~((applicable statutes))~~ chapter 275-38 WAC, departmental regulations and instructions. The department may return an annual cost report deficient in any of these respects ~~((may be returned))~~ in whole or in part to the contractor for proper completion. Submit annual reports ~~((must be submitted))~~ by the due date determined in accordance with WAC 275-38-535.

(2) ~~((For purposes of establishing rates effective July 1, 1982, if a contractor has not corrected errors in an annual cost report, including the proposed settlement, according to subsection (1) of this section by May 15, 1982, such report shall be excluded from computation of the redistribution pool established pursuant to WAC 275-38-855(5) and the contractor shall be subject to the provisions of subsection (3) of this section.~~

(3) ~~((If a ~~((report is))~~ the department does not receive properly completed ~~((or is not received by the department))~~ report on or before the due date of the report, including any approved extensions, all or a part of any~~

payments due under the contract may be held by the department until the improperly completed or delinquent report is properly completed and received by the department.

AMENDATORY SECTION (Amending 2412, filed 8/21/86)

WAC 275-38-555 COMPLETING REPORTS AND MAINTAINING RECORDS. (1) All reports shall be legible and reproducible. ~~((It is recommended))~~ All entries shall be ((typed or)) in black or dark blue ink or provided in an acceptable, indelible copy.

(2) Contractors shall complete reports ((shall be completed)) in accordance with instructions provided by the department. If no specific instruction covers a situation, follow generally accepted accounting principles ~~((shall be followed))~~.

(3) Contractors shall use the accrual method of accounting ((shall be used)), except for governmental institutions operated on a modified accrual method of accounting ((- data based on this method of accounting will be acceptable)). Reverse all revenue and expense accruals ~~((shall be reversed))~~ against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy ~~((is))~~ and generally accepted accounting principles are followed.

(4) Contractor shall consistently apply methods of allocating costs, including indirect or overhead costs. ((Written approval must be obtained from the department if a contractor wishes to change an allocation method.)) Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs ~~((using the methods approved by the department under WAC 275-38-735))~~ in accordance with benefits received from the resources represented by those costs.

(5) The contractor shall maintain records relating to an IMR so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. If a contractor maintains records utilizing a chart of accounts other than that established by the department, the contractor shall provide to the department a written schedule specifying the way in which the contractor's individual account numbers correspond to the department's chart of accounts. Contractors shall make records available for review by authorized personnel of the department and of the United States Department of Health and Human Services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes or fails to allow inspection of such records by authorized personnel as provided in the contractor's IMR contract, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon

compliance, the department shall resume current contract payments and shall release payments suspended pursuant to the contractor's IMR contract.

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 1853, filed 8/3/82)

WAC 275-38-560 CERTIFICATION REQUIREMENT. Each required report shall be accompanied by a certification signed on behalf of the contractor responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person normally signing this return. The certification shall also be signed by the ~~((licensed))~~ administrator of the IMR facility. If the report is prepared by someone other than an employee of the contractor, include a separate statement ((shall be included)) with the certification signed by the individual preparing the report and indicating his or her status with the contractor. Submit only the original signature of the certification of the cost report.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-565 REPORTS—FALSE INFORMATION. (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes cause for termination of the contractor's contract with the department.

(2) Adjustments to reimbursement rates required because a false report was filed will be made in accordance with WAC ~~((275-38-885))~~ 275-38-900.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-570 AMENDMENTS TO REPORTS. (1) For purposes of determining allowable costs for computing ((settlements)) a final settlement, the department shall consider an amendment to an annual report ((shall be)) only if filed ((if significant errors or omissions are discovered prior to the commencement of)) by the contractor before receipt of notification scheduling the department's field audit. If no audit is conducted by the department and the preliminary settlement report becomes the final settlement report, the department shall consider an amendment to an annual report only if filed within thirty days after the contractor receives the final settlement report for which no audit has been conducted. For only the purpose of adjusting reimbursement rates for errors or omissions, the contractor may file an amendment subsequent to notification scheduling the department's field audit pursuant to the provision of WAC 275-38-900. A contractor may file an amendment and the department can consider it only if the errors or omissions are significant. Errors or omissions shall be deemed "significant" if errors or

omissions would mean a net difference of two cents or more per resident day or one thousand dollars or more in reported costs, whichever is higher, in any cost area. To file an amendment, only pages where changes are required need to be filed, together with the certification required by WAC 275-38-560. Adjustments to reimbursement rates resulting from an amended report will be made in accordance with WAC 275-38-885.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department may refuse to consider an amendment resulting in a more favorable settlement or rate to a contractor if the amendment is:

(a) Not the result of circumstances beyond the control of the contractor; or

(b) The result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question. (~~Amendments may be submitted for purposes of adjusting reimbursement rates in accordance with WAC 275-38-900; however, use in this regard does not mean an amendment will be used for settlement purposes in the absence of conditions specified in subsection (2) of this section.~~)

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-585 REQUIREMENT FOR RETENTION OF REPORTS BY THE DEPARTMENT. The department (~~will~~) shall retain each required report for a period of (~~three~~) five years following the date the report was submitted. If at the end of (~~three~~) five years there are unresolved audit questions, the department shall retain the report (~~will be retained~~) until such questions are resolved.

NEW SECTION

WAC 275-38-586 REQUIREMENTS FOR RETENTION OF RECORDS BY THE CONTRACTOR. The contractor shall retain all records supporting the required reports for a period of five years subsequent to filing at a location in the state of Washington specified by the contractor. If at the end of five years there are unresolved audit questions, the records shall be retained until these questions are resolved. All such data shall be made available upon demand to authorized representatives of the department and of the United States Department of Health and Human Services. When a contract is terminated, final settlement shall not be made until accessibility to and preservation of the records within the state of Washington are assured.

AMENDATORY SECTION (Amending Order 2091, filed 4/10/84)

WAC 275-38-600 FIELD AUDITS. (1) The department shall field audit all cost reports for calendar year 1983 (~~shall be field audited by the department~~).

(2) The department may field audit cost reports for years subsequent to 1983 (~~may be field audited~~) by auditors employed by or under contract with the department. The department shall notify facilities selected for audit within one hundred twenty days after submission of a complete and correct cost report of the department's intent to audit. The department shall complete such audits within one year after notification of the department's intent to audit unless the contractor fails to allow access to records and documentation or otherwise prevents the audit from being completed in a timely manner.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-605 PREPARATION FOR AUDIT BY THE CONTRACTOR. (1) The department (~~will~~) shall normally notify the contractor at least (~~two weeks~~) ten working days in advance of a field audit.

(2) The contractor shall provide the auditors with access to the IMR and to all financial(;) and statistical records. These financial and statistical records shall include income tax returns relating to the cost report directly or indirectly, and work papers supporting the data in the cost report or relating to resident trust funds. Such records shall be made available at a location in the state of Washington specified by the contractor(~~(, as agreed by the department)~~).

(3) The contractor shall reconcile reported data with applicable federal income and payroll tax returns and with the financial statement as of the end of the period covered by the report. Such reconciliation shall be in suitable form for verification by the auditors.

(4) The contractor shall designate and make available one or more individuals familiar with the internal operations of a facility being audited in order to respond to questions and requests for information and documentation from the auditors. If the individual or individuals designated cannot answer all questions and respond to all requests, an alternative individual with sufficient knowledge and access to records and information must be provided by the contractor.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-610 SCOPE OF FIELD AUDITS.

(1) Auditors (~~will~~) shall review the contractor's (~~record-keeping~~) record keeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) Auditors (~~will~~) shall examine the contractor's financial and statistical records to verify:

(a) Supporting records are in agreement with reported data; and

(b) Only assets, liabilities, and revenue and expense items the department has specified as allowable costs have been included by the contractor in computing the costs of services provided under the contract; and

(c) Allowable costs have been accurately determined and are (~~reasonable~~) necessary, ordinary, and related to resident care; and

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed; and

(e) Resident trust funds have been properly maintained.

(3) Auditors ~~((with))~~ shall prepare and provide draft audit narratives and summaries to the contractor before final narratives and summaries are prepared.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-615 INADEQUATE DOCUMENTATION. The auditors ~~((with))~~ shall disallow any assets, liabilities, revenues, or expenses reported as allowable ~~((costs))~~ which are not supported by adequate documentation in the contractor's financial records. Documentation must show:

(1) The costs were incurred during the period covered by the report and were related to resident care and training; and

(2) Assets reported were used in the provision of resident care and training.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-620 DEADLINE FOR COMPLETION OF AUDITS. (1) The department shall complete field audits ~~((will be completed))~~ within one year after a properly completed annual cost report is received ~~((by the department))~~ or within one year after an IMR facility is notified it has been selected for audit, provided field auditors are given timely access to the IMR facility and to all ~~((financial and statistical))~~ records necessary to audit the report.

(2) For state IMRs, the department shall complete field audits within three years after a properly completed cost report is received by the department, provided field auditors are given timely access to the facility and all records necessary to audit the report.

(3) The department ~~((with))~~ shall give priority to any field audits of final annual reports and whenever possible ~~((with))~~ shall begin such field audits within ~~((sixty))~~ ninety days after a properly completed final annual report is received.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-650 ACCOUNTING PROCEDURES FOR RESIDENT TRUST ACCOUNTS. (1) The provider shall maintain a subsidiary ledger with an account for each resident for whom the provider holds money in trust. Each account and related supporting information shall:

(a) Be maintained at the facility;

(b) Be kept current;

(c) Be balanced each month, and;

(d) Show in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) The contractor shall make each account ~~((shall be))~~ available for audit and inspection by a department

representative and be ~~((maintained))~~ maintain such accounts for a minimum of ~~((three))~~ five years. The provider further agrees to notify the division of developmental disabilities, regional services office of the department when:

(a) The account of any individual certified on or before December 31, 1973, having an award letter limit of two hundred dollars cash, reaches the sum of one hundred seventy-five dollars.

The regional services office ~~((with))~~ shall re-evaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974, having an award letter specifying a two hundred dollar cash limit.

(b) The account of any individual certified on or after January 1, 1974, ~~((having an award letter limit of))~~ whose resources are within one ~~((thousand five))~~ hundred dollars ~~((, reaches the sum of one thousand four hundred fifty dollars))~~ of the amount listed on the award letter.

(c) ~~((For both groups;))~~ The accumulation toward the limit under subsection (2)(a) or (b) of this section, after admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income the department specifically designates as exempt income from ~~((time-to-time))~~ time to time.

(d) No resident may overdraw his or her account ~~((may be overdrawn))~~ (show a debit balance). If a resident wants to spend an amount greater than in ~~((such resident's))~~ his or her trust account, the IMR may provide money from ~~((the IMR's))~~ its own funds ~~((and))~~. The IMR can collect the debt by installments from ~~((the))~~ that portion of the resident's allowance remaining at the end of each month. No interest may be charged to residents for such loans.

(3) ~~((In order to ensure the))~~ Resident trust accounts ~~((are))~~ may not be charged for services provided under the Title XIX program~~((;))~~. Any charge for medical services otherwise properly made to a resident's trust account must be supported by a written denial from the department.

(a) A request for additional equipment such as a walker, wheelchair or crutches must have a written denial from the department of social and health services before a resident's trust account can be charged.

(b) Except as otherwise provided below, a request for physical therapy, drugs, or other medical services must have a written denial from the ~~((local CSO))~~ department before a resident trust account can be charged.

A written denial from the ~~((local CSO))~~ department is not required when the pharmacist verifies a drug is not covered by the program (e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications such as vitamins, ~~((laxatives;))~~ nose drops, etc.). The pharmacist's notation to this effect is sufficient.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-655 TRUST MONEYS—IMPREST FUND. (1) The provider may maintain a petty cash fund originating from trust moneys of an amount reasonable and necessary for the size of the facility and

the needs of the residents, not to exceed five hundred dollars. This petty cash fund shall be an imprest fund. The contractor shall deposit all moneys over and above the trust fund petty cash amount (~~((shall be deposited))~~) intact in a trust fund checking account, separate and apart from any other bank account(s) of the facility or other facilities.

(2) Cash deposits of resident allowances (~~((must))~~) shall be made intact to the trust account within one week from the time payment is received from the department, social security administration, or other payor.

(3) The contractor shall make any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, (~~((shall be made))~~) available for audit and inspection by a department representative, and shall be maintained by the IMR for not less than ~~((three))~~ five years.

(4) No service charges for such checking account shall be paid by resident trust moneys.

(5) The trust account per bank shall be reconciled monthly to the trust account per resident ledgers.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-660 TRUST MONEYS CONTROL OR DISBURSEMENT. The contractor shall hold trust moneys (~~((shall be held in trust))~~) and (~~((are))~~) not to be turned over to anyone other than:

(a) The resident or his or her guardian without the written consent of the resident,

(b) His or her designated agent as appointed by (~~((power of attorney))~~) power of attorney, or

(c) Appropriate department of social and health services personnel as designated by the DDD regional services administrator.

(1) Complete a receipt in duplicate when moneys are received(~~((, a receipt should be filled out in duplicate))~~); give one copy (~~((should be given))~~) to the person making payment or deposit, and retain the other copy (~~((should be retained))~~) in the receipt book for easy reference.

(2) Residents shall endorse any checks received (~~((by residents must be endorsed by the resident))~~). Each resident receiving a check or state warrant is responsible for endorsement by his or her own signature. Only when the resident is incapable of signing his or her name may the provider assume the responsibility of securing the resident's mark "X" followed by the name of the resident and the signature of two witnesses.

(3) If both the general fund account and the trust fund account are at the same bank, deposit the trust portion of checks including care payments can be deposited directly to trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The contractor shall credit the resident's trust account ledger sheet (~~((must be credited))~~) with the allowance received. This should be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made).

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-667 ACCOUNTING UPON CHANGE OF OWNERSHIP. (1) Upon sale of the facility or other transfer of ownership, the (~~((facility must))~~) former contractor shall provide the new (~~((owner))~~) contractor with a written accounting, in accordance with generally accepted auditing (~~((procedures))~~) standards, of all (~~((patient))~~) resident funds being transferred, and obtain a written receipt for the funds from the new (~~((owner))~~) contractor.

(2) The facility (~~((must))~~) shall give each (~~((patient))~~) resident or representative a written accounting of any personal funds held by the facility before any transfer of ownership occurs.

(3) In the event of a disagreement with the accounting provided by the (~~((facility))~~) former contractor, the (~~((patient))~~) resident retains all rights and remedies provided under state law.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-680 ALLOWABLE COSTS. (1) Allowable costs are documented costs which are necessary, ordinary, and related to the provision of IMR services to IMR residents, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if costs are of the nature and magnitude ((a)) which prudent and cost-conscious management would pay.

(2) Upon a request for a rate adjustment pursuant to WAC 275-38-900 or 275-38-906, costs previously audited and not disallowed are subject to review by the department pursuant to subsection (1) of this section.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-685 SUBSTANCE PREVAILS OVER FORM. (1) In determining allowable costs, the substance of a transaction (~~((will))~~) shall prevail over the transaction's form. Accordingly, allowable costs (~~((will))~~) shall not include increased costs resulting from transactions or the application of accounting methods (~~((circumventing))~~) which circumvent the principles of the prospective cost-related reimbursement system.

(2) The department shall not allow increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and leaseback, successive sales or leases of a single facility or piece of equipment) (~~((will not be allowed))~~).

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-690 OFFSET OF MISCELLANEOUS REVENUES. (1) The contractor shall reduce allowable costs (~~((shall be reduced by the contractor))~~) whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for IMR services(~~((-Except:))~~).

The contractor shall not deduct unrestricted grants, gifts, endowments, and interest therefrom, ~~((will not be deducted))~~ from the allowable costs of a nonprofit facility.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, the amount of the reduction shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) ~~The department shall recover only allowable costs ((shall be recovered))~~ under this section. Costs allocable to activities or services not included in IMR services (e.g., costs of vending machines ~~(, residents' personal laundry,))~~ and services specified in chapter 388-86 WAC which are not included in IMR services) are non-allowable costs.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-695 COSTS OF MEETING STANDARDS. All ~~((categories of))~~ necessary and ordinary expenses a contractor incurs in providing IMR services meeting all applicable standards will be allowable costs. The expenses include necessary and ordinary costs of:

- (1) Meeting licensing and certification standards;
- (2) Fulfilling accounting and reporting requirements imposed by chapter 275-38 WAC; and
- (3) Performing any resident assessment activity required by the department.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-700 LIMIT ON COSTS TO RELATED ORGANIZATIONS. (1) The department shall allow costs applicable to services, facilities, and supplies furnished by organizations related to the contractor ~~((shall be allowable))~~ only to the extent:

- (a) The costs do not exceed the lower of the cost to the related organization; or
- (b) The price of comparable services, facilities, or supplies are purchased elsewhere. The term "related organization" is defined in WAC 275-38-001.

(2) Nonstate facilities shall make documentation of costs to related organizations ~~((shall be made))~~ available to the auditors at the time and place the financial records relating to the entity are audited. State facilities shall make documentation of costs to related organizations available to the auditors at the time the facility is audited at the department's offices of accounting services, financial recovery, or budget. The department shall disallow payments to or for the benefit of the related organization ~~((will be disallowed))~~ where the cost to the related organization cannot be documented.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-705 START-UP COSTS. The department shall allow necessary and ordinary start-up

costs, as defined in WAC 275-38-001, ~~((will be allowable if))~~ in the administration and operations rate component. Start-up costs ~~((are))~~ shall be amortized over not less than sixty consecutive months beginning with the month the first resident is admitted for care.

NEW SECTION

WAC 275-38-706 ORGANIZATION COSTS. (1) The department shall allow necessary and ordinary costs ~~((which are))~~ directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first resident ~~((;)).~~ The department will ~~((be allowable))~~ allow these costs in the administration and operations cost area if they are amortized over not less than sixty consecutive months beginning with the month in which the first resident is admitted for care.

(2) Allowable organization costs include, but are not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. Organization costs do not include costs relating to the issuance and sale of shares of stock or other securities.

Reviser's note: The unnecessary underscoring and doubling in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-715 EDUCATION AND TRAINING. (1) The department shall allow ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training when directly related to the performance of duties assigned ~~((will be allowable costs)).~~

(2) Ordinary expenses of resident life staff training ~~((with))~~ pursuant to chapter 18.52A RCW shall be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers ~~((with))~~ shall be allowable costs. Expenses of training programs for other nonemployees ~~((with))~~ shall not be allowable costs, except training provided to employees of a county-contracted training program which is provided by an IMR as a condition of their agreement with the county-contracted training program.

(4) The department shall allow expenses for travel in the states of Idaho, Oregon, and Washington and the Province of British Columbia associated with education and training if the expenses meet the requirements of chapter 275-38 WAC.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-720 TOTAL COMPENSATION—OWNERS, RELATIVES, AND CERTAIN ADMINISTRATIVE PERSONNEL. For purposes of the tests in WAC 275-38-725 and 275-38-730, total compensation ~~((includes))~~ shall be as provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties.

In the absence of a contract, total compensation shall include gross salary or wages and fringe benefits (e.g., health insurance) made available to all employees but excludes payroll taxes paid by the contractor.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-725 OWNER OR RELATIVE—COMPENSATION. (1) The department shall limit total compensation of an owner or relative of an owner ((shall be limited)) to the ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if ((the compensation)) it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if the service is related to resident care and training and would have had to be performed by another person if the owner or relative had not performed the service.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives receiving compensation. Such records shall document compensated time was spent in provision of necessary services actually performed.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

AMENDATORY SECTION (Amending Order 2213, filed 3/6/85)

WAC 275-38-745 ALLOWABLE INTEREST. (1) The department shall allow the contractor's necessary and ordinary interest for working capital and capital indebtedness ((will be allowable)).

(a) To be necessary, interest must be incurred in connection with a loan satisfying a financial need of the contractor and be for a purpose related to resident care and training. Interest expense relating to business opportunity or goodwill will not be allowed.

(b) To be ordinary, interest must be at a rate not in excess of what a prudent borrower would have to pay at the time of the loan in an arm's-length transaction in the money market.

(c) Interest expense shall include amortization of bond discounts and expenses related to the bond issue. Amortization shall be over the period from the date of sale to the date of maturity or, if earlier, the date of extinguishment of the bonds.

(d) Interest expense for assets acquired in a change of ownership entered into after September 30, 1984, shall be disallowed in proportion to the amount by which the loan principal for the acquired assets exceeds the original depreciation base of the owner of the assets as of July 18, 1984.

(2) Interest paid to or for the benefit of a related organization ((with)) shall be allowed only to the extent the actual interest does not exceed the cost to the related organization of obtaining the use of the funds.

(3) The contractor shall capitalize interest expense and loan origination fees relating to construction incurred during the period of construction. Such costs shall be amortized over the life of the asset from the date the first resident is admitted or the asset is put into service for resident care and training.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-750 OFFSET OF INTEREST INCOME. (1) In computing allowable costs, the contractor shall deduct interest income from the investment or lending of nonrestricted funds ((shall be deducted)) from allowable interest expense, except for a nonprofit facility.

(2) Interest income from the investment or lending of restricted funds shall not be deducted from allowable interest expense.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-770 CAPITALIZATION. The contractor shall capitalize the following costs ((shall be capitalized)):

(1) ((Expenses)) Expenditures and costs for equipment including furniture and furnishings, with historical cost in excess of one hundred fifty dollars per unit and a useful life of more than one year from the date of purchase.

(2) ((Expenses)) Expenditures and costs for equipment including furniture and furnishings, with historical cost of one hundred fifty dollars or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item was part of the initial equipment or stock of the IMR facility.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the sum "five hundred dollars" replacing the sum "one hundred fifty dollars."

(4) Expenditures for and costs of building, and other real property items, components, and improvements and leasehold improvements, if required or authorized by the lease agreement, in excess of five hundred dollars and involving one or more of the following:

(a) Increase the interior floor space of the structure;

(b) Increase or renewal of paved areas outside the structure adjacent to or providing access to the structure;

(c) Modification of the exterior or interior walls of the structure;

(d) Installation of additional heating, cooling, electrical ((or)) water-related, or similar fixed equipment;

(e) ((Remodeling)) Landscaping or redecorating ((enhancing the value of the structure sufficiently to justify an increase in service charges to residents));

(f) Increase the useful life of the structure by two years or more;

(g) For a leasehold improvement, the asset shall be amortized over the asset's useful life in accordance with American hospital association guidelines.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-775 DEPRECIATION EXPENSE. Depreciation expense on depreciable assets required in the regular course of providing resident care and training ~~((with))~~ shall be an allowable cost. The depreciation expense shall be:

(1) Identifiable and recorded in the contractor's accounting records, and

(2) Computed using the depreciation base, lives and methods specified in chapter 275-38 WAC (~~(275-38-780)~~).

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-780 DEPRECIABLE ASSETS. (1) Tangible assets of the following types where a contractor has an economic interest through ownership are subject to depreciation:

(a) Building – The basic structure or shell and additions thereto.

(b) Building fixed equipment – Attachments to buildings, such as wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(i) Affixed to the building and not subject to transfer; and

(ii) ~~((An estimated))~~ A fairly long life ~~((longer than ten years))~~, but shorter than the life of the building where affixed.

(c) Major movable equipment – Such items as beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:

(i) A relatively fixed location in the building;

(ii) Capable of being moved as distinguished from building equipment;

(iii) A unit cost sufficient to justify ledger control;

(iv) Sufficient size and identity to make control feasible by means of identification tags; and

(v) A minimum life of approximately three years. Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, this equipment shall be characterized by a minimum life of greater than one year.

(d) Minor equipment – Such items as waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets properly capitalized. No depreciation shall be taken on items not properly capitalized (see WAC 275-38-770). The general characteristics of minor equipment are:

(i) In general, no fixed location and subject to use by various departments;

(ii) Small in size and unit cost;

(iii) Subject to inventory control;

(iv) Fairly large number in use; and

(v) Generally, a useful life of one to three years.

(e) Land improvements – Such items as paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, walls, etc., where replacement is the responsibility of the contractor.

(f) Leasehold improvements – Betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease.

(2) Land is not depreciable. The cost of land includes the cost of such items as off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

AMENDATORY SECTION (Amending Order 2312, filed 12/5/85)

WAC 275-38-785 DEPRECIATION BASE. (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing depreciation base for use, less goodwill and less accumulated depreciation incurred during periods the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsection (4) of this section and WAC 275-38-790, 275-38-795, and 275-38-800. If the department challenges the historical cost of an asset or a contractor is not able to provide adequate documentation of the historical cost of an asset, the department may have the fair market value of the asset at the time of purchase established by appraisal. The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When these appraisals are conducted, the depreciation base of the asset will not exceed fair market value. Estimated salvage value, if any, shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(3) Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(4) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(5) Effective October 1, 1984, the depreciation base for assets acquired in a change of ownership entered into on or after July 18, 1984, shall not exceed the lower of the purchase price of the new owner or the acquisition cost base of the owner of the assets on or after July 18, 1984. Costs (including legal fees, accounting and administrative costs, travel costs, and the cost of feasibility studies) attributable to the negotiation or settlement of

the assets acquired in the change of ownership, where any payment has previously been made by Title XIX, shall not be allowed.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-790 DEPRECIATION BASE—DONATED OR INHERITED ASSETS. (1) The depreciation base of donated assets, as defined in WAC 275-38-001, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death, less goodwill. Estimated salvage value, if any, shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or

(b) The ~~((depreciation base under the cost-related reimbursement program))~~ historical cost of the owner last contracting with the department, if any.

(2) If the donation or distribution is between related organizations, the base shall be the lesser of:

(a) Fair market value, less goodwill and, where appropriate, salvage value, or

(b) The depreciation base the related organization had or would have had for the asset under a contract with the department.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-800 METHODS OF DEPRECIATION. (1) Buildings, building improvements, land improvements, leasehold improvements, and fixed equipment shall be depreciated using the straight-line method. Major-minor equipment shall be depreciated using either the straight-line method, the sum-of-the-years digits method, or declining balance method not to exceed one hundred fifty percent of the straight-line rate. Contractors electing to take either the sum-of-the-years digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes not both necessary and related to resident care and training.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to WAC 275-38-785.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-812 HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS—OTHER PERIODS. (1) This section shall apply in the place of WAC 275-38-810 effective January 1, 1981, for purposes of settlement for settlement periods ~~((prior))~~ subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-815 RECOVERY OF EXCESS OVER STRAIGHT-LINE DEPRECIATION. If a contractor terminates the contract without selling or otherwise retiring equipment which was depreciated using an accelerated method, depreciation schedules relating to these assets for periods the contractor participated in the IMR program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement which would have been paid for depreciation if the straight-line method had been used, ~~((with))~~ shall be recovered by the department.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-820 UNALLOWABLE COSTS. (1) Costs ~~((with))~~ shall be unallowable if not documented, necessary, ordinary, and related to the provision of services to IMR residents.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the Medicaid program. Costs of nonprogram items or services will be unallowable even if indirectly reimbursed by the department as the result of an authorized reduction in resident contribution.

(b) Costs of services and items provided to IMR residents covered by the department's medical care program but not included in IMR services respectively. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 CFR) if the department found the capital expenditure was not consistent with applicable standards, criteria or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to resident care and training.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

(j) Bad debts.

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and cost incurred to improve community or public relations.

(i) Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits, or other legal action against the department.

(ii) Travel expenses for members of trade association boards of directors, otherwise meeting the requirements of chapter 275-38 WAC, for more than twelve meetings per year.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except ~~((those))~~ items used in resident activity programs or in IMR programs where clothing is a part of routine care.

(r) Fund-raising expenses, except those directly related to the resident activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in residents' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services, except where authorized by the department.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase and/or use of private or commercial airplanes in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to resident care.

(z) Personal expenses and allowances of owners or relatives.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) Goodwill and amortization of goodwill.

(dd) Expenses related to vehicles in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to resident care.

(ee) Legal and consultant fees in connection with a fair hearing against the department, including but not

limited to accounting services in preparation of administrative or judicial review, where ((a)) the final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review.

(ff) Legal and consultant fees in connection with a lawsuit against the department ((are nonallowable)), including appeals of administrative decision suits.

(gg) Lease acquisition costs and other intangibles not related to resident care and training.

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds.

(ii) Travel expenses outside the states of Idaho, Oregon, and Washington and the Province of British Columbia. However, travel to and from the home and central office of a chain organization operation will be allowed outside those areas if such travel is necessary, ordinary, and related to resident care and training.

(jj) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington and the Province of British Columbia.

(3) If a contractor provides goods or services not reimbursable under chapter 275-38 WAC, any material indirect or overhead costs must be allocated to such goods or services and not be reported as an allowable cost.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-840 PROSPECTIVE REIMBURSEMENT RATE FOR NEW CONTRACTORS.

(1) A prospective reimbursement rate for a new contractor ~~((with))~~ shall be established within sixty days following receipt by the department of a properly completed projected budget (see WAC 275-38-520). The reimbursement rate ~~((with))~~ shall be effective as of the effective date of the contract.

(2) The prospective reimbursement rate ~~((with))~~ shall be based on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances taking into account applicable lids or maximums.

(3) If a properly completed projected budget is not received at least sixty days prior to the effective date of the contract, the department ~~((with))~~ shall establish a preliminary rate based on the other factors specified in subsection (2) of this section. The preliminary prospective rate ~~((with))~~ shall remain in effect until an initial prospective rate can be set.

(4) Where a change of ownership is involved which is not an arm's-length transaction as defined in WAC 275-38-001, the new contractor's prospective rates in the administration and operation and property cost areas ~~((with))~~ shall be no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-845 RATE DETERMINATION.

(1) Each contractor's reimbursement rate ~~((with))~~ shall be determined prospectively ~~((at least))~~ once each calendar year to be effective July ~~((1st))~~ 1. Rates may be adjusted to take into consideration legislative inflation adjustments or pursuant to WAC 275-38-900 or 275-38-906.

~~(2) ((Prospective reimbursement rates shall be determined utilizing the prior year's desk-reviewed cost reports, and/or other documents submitted by each contractor. Prospective rates shall include an adjustment for inflation in accordance with appropriations made by the state legislature as consistent with federal requirements for the period to be covered by such rates. The legislative inflation factors will be specified in division policy Directive 406))~~ If the contractor participated in the program for at least six months of the prior calendar year, its rates shall be based on the contractor's allowable costs in the prior period. If the contractor participated in the program for less than six months of the prior calendar year, its rates shall be based on its rate determined per WAC 275-38-840.

~~(3) ((Rates may be adjusted for:~~

~~(a) Changes approved by the department in staffing and/or consultant services at a facility in order to be in compliance with applicable state and federal laws, regulations, and quality and safety standards;~~

~~(b) Capital additions, improvements, or replacements made at a facility which are approved by the department as a condition of licensure or certification; or~~

~~(c) Department changes in program standards or services; or~~

~~(d) Administrative review conducted pursuant to WAC 275-38-900 or 275-38-960))~~ Contractors submitting correct and complete cost reports by March 31, shall be notified of their rates by July 1, unless circumstances beyond the control of the department interfere.

~~(4) ((Adjustments for cost changes not otherwise specified in subsection (3) of this section shall be provided by means of an inflation adjustment pursuant to subsection (2) of this section))~~ The department shall take data used in determining rates from the most recent, complete, desk-reviewed cost report submitted by the contractor.

~~(5) Data containing obvious errors shall be excluded from the determination of predicted costs, cost averages, and rate upper limits for WAC 275-38-870.~~

~~(6) Inflation factor adjustments shall be specified in division policy Directive 406.~~

AMENDATORY SECTION (Amending Order 2012, filed 8/19/83)

WAC 275-38-846 DESK REVIEW FOR RATE DETERMINATION. (1) The department shall analyze ~~((the submitted))~~ each cost report ~~((and financial statements of each contractor))~~ to determine if the information is correct, complete, and reported in conformity

with generally accepted accounting principles, the requirements of ~~((this))~~ chapter 275-38 WAC, and such ~~((regulations))~~ rules and instructions issued by the department. An analysis by the department to determine whether reported information is correct and complete may include, but is not limited to:

(a) An examination of reported costs for prior years;

(b) An examination of desk review adjustments made in prior years and their final disposition; and

(c) An examination of findings, if any, from field audits of cost reports from prior years and findings, if any, from the field audit of the cost report under analysis.

~~(2) If it appears from the analysis ((finds the cost report or financial statements are))~~ a contractor has not correctly determined or reported its costs, the department may make adjustments to the reported information for purposes of establishing reimbursement rates. The department shall provide a schedule of such adjustments ((shall be provided)) to contractors and shall include an explanation for the adjustment and the dollar amount ((of the adjustment)) for each adjustment made. Adjustments shall be subject to review and appeal as provided in ((this chapter)) subsection (2)(a) or (b) below.

(a) If a contractor believes an adjustment is in error, the adjustment shall be subject to review pursuant to WAC 275-38-900; and

(b) If a satisfactory resolution of issues is not reached between the contractor and the department, the adjustment shall be subject to further review pursuant to WAC 275-38-950 and 275-38-960.

(3) The department may accumulate data from properly completed cost reports for use in exception profiling and establishing rates.

(4) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as deemed necessary by the department.

AMENDATORY SECTION (Amending Order 2412, filed 8/21/86)

WAC 275-38-860 RESIDENT CARE AND HABILITATION COST CENTER RATE. (1) For C and D level facilities, the resident care and habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation.

(2) For E level facilities, the resident care and habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation. The cost center will also reimburse for resident care and training staff performing administration and operations functions specified in WAC 275-38-870.

(3) A facility's resident care and habilitation cost center rate shall be ~~((determined as follows:~~

~~(a)))~~ the facility's most recent desk-reviewed costs per resident day ((shall be)) adjusted for inflation ((except those costs for resident care and training (RCT) and recreation staff.

~~(b) RCT staff and recreation staff shall be determined by multiplying the number of reimbursed RCT and recreation staff hours per resident day reported in the facility's most recent cost report by the greater of seven dollars and twenty-nine cents or the most recent reported cost for RCT and recreation staff per reported hour.~~

~~(c) The amounts determined in subsections (3)(a) and (b) of this section shall be summed to establish the facility's rate).~~

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-869 MANAGEMENT AGREEMENTS, MANAGEMENT FEES, ((AND)) CENTRAL OFFICE SERVICES, AND BOARD OF DIRECTORS. (1) If a contractor intends to enter into a management agreement with an individual or firm which will manage the IMR facility as agent of the contractor, a copy of the agreement must be ((received)) submitted by the ((department)) contractor at least ((ninety)) sixty days before the agreement is to become effective. A copy of any amendment to a management agreement must also be received by the department at least ((ninety)) thirty days in advance of the date the amendment is to become effective. No management fees for periods prior to the time the department receives a copy of the applicable agreement ((will)) shall be allowable. When necessary for the health and safety of facility residents, the ((ninety)) sixty-day notice requirement may be waived, in writing, by the department.

(2) Management fees ((will)) shall be allowed only if:

(a) A written management agreement both creates a principal and/or agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates the services contracted for were actually delivered.

~~((3))~~ (c) To be allowable, fees must be for necessary, nonduplicative services.

(3) The contractor shall limit allowable fees for general management services, including corporate or business entity management and board of director's fees and including the overhead and indirect costs associated with providing general ((the portion of a)) management ((fee not allocated to specific)) services ((such as accounting, are limited)) to:

(a) The maximum allowable compensation under WAC 275-38-868 of the licensed administrator and, if the facility has at least eighty set-up beds, of an assistant administrator; less

(b) Actual compensation received by the licensed administrator and by the assistant administrator, if any. In computing maximum allowable compensation under WAC 275-38-868 for a facility with at least eighty set-up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed;

(c) For IMR facilities of fifteen or fewer beds, the maximum allowable compensation under WAC 275-38-868, less the actual compensation received by the QMRP.

(4) A management fee paid to or for the benefit of a related organization ((will)) shall be allowable to the extent the fee does not exceed the lesser of:

(a) The limits set out in subsection (3) of this section; or

(b) The lower of the actual cost to the related organization of providing necessary services related to resident care and training under the agreement, or the cost of comparable services purchased elsewhere.

Where costs to the related organization represents joint facility costs, the measurement of such costs shall comply with WAC 275-38-868.

(5) Central office ((joint facility)) costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, ((including)) shall include the ((portion of a)) overhead and indirect costs associated with providing general management expense not allocated to specific services((;)). Such costs shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

(6) Necessary travel and housing expenses of nonresident staff working at a contractor's IMR facility are allowable costs if the visit does not exceed three weeks. Such costs in excess of three weeks shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

(7) Bonuses paid to employees at a contractor's IMR facility are compensation. Bonuses paid to employees at a contractor's central office or otherwise not employed at the IMR facility, who are not engaged in nonmanagerial services such as accounting, are management costs and shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

(8) Fees paid to members of the board of directors of corporations operating IMR facilities shall be subject to the management fee limits determined in subsection (3) and (4) of this section.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-880 RETURN ON EQUITY. (1) The department will pay a return on equity to proprietary contractors.

(2) A contractor's net equity will be calculated using the appropriate items from the contractor's most recent desk-reviewed cost report utilizing the definition of equity capital in WAC 275-38-001 and applying relevant Medicare rules and regulations, except that goodwill is not includable in the determination of net equity and monthly equity calculations will not be used.

(3) The contractor's net equity will be multiplied by ((twelve percent)) the prior calendar year's December 31 Medicare rate of return for the twelve-month period ending on the date of the closing date of the contractor's cost report. The amount will be divided by the contractor's annual resident days for the cost report period to determine a rate per resident day. Where a contractor's cost report covers less than a twelve-month period, annual resident days will be estimated using the contractor's reported resident days. The contractor shall be paid

a prospective rate which is the lesser of the amount calculated pursuant to this section or two dollars per resident day.

(4) The information on which the return on equity is calculated is subject to field audit. ~~((If a) Field audit shall determine(s) whether the desk-reviewed reported equity exceeds the equity documented and calculated in conformance with Medicare rules and regulations as modified by this section(;)). Using the determinations of field audit, the department shall recalculate the contractor's return on equity rate for the rate period using the report ((shall be recalculated using the determinations of the field audit)). Any payments in excess of the rate shall be refunded to the department as part of the settlement procedure established by WAC 275-38-886.~~

AMENDATORY SECTION (Amending Order 2213, filed 3/6/85)

WAC 275-38-886 PRINCIPLES OF SETTLEMENT. (1) ~~((Effective January 1, 1985, a contractor's resident care and habilitation cost center payment shall be the lower of their prospective rate or allowable cost. A contractor's administration, operations and property cost center payment shall be their prospective rate. A contractor's return on equity payment shall be their prospective rate)) Settlement shall be calculated at the lower of prospective reimbursement rate or audited allowable costs, except as otherwise provided in this chapter.~~

~~(2) ((A contractor's resident care and habilitation cost center payment shall be determined by the settlement procedure prescribed in this section)) Each contractor shall complete a proposed preliminary settlement as part of the annual cost report and submit it by the due date of the annual cost report. After review of the proposed preliminary settlement, the department shall issue a preliminary settlement report to the contractor.~~

~~(3) ((The settlement process shall consist of a preliminary settlement and a final settlement)) If a field audit is conducted, the department shall evaluate the audit findings after completion of the audit and shall issue a final settlement which takes account of such findings and evaluations.~~

~~(4) ((The preliminary settlement process will be as follows:~~

~~(a) Providers are required to submit a proposed settlement report with the cost report.~~

~~(b) Within one hundred twenty days after receipt of the proposed settlement, the department shall verify the accuracy of the proposal and shall issue a preliminary settlement substantiating refunds, underpayments, and overpayments)) Pursuant to preliminary or final settlement and the procedures set forth in ((this)) chapter 275-38 WAC, the contractor shall refund overpayments to the department and the department shall pay underpayments to the contractor.~~

~~(5) ((The final settlement process will be as follows:~~

~~(a) After completion of the audit process, including exhaustion or mutual termination of reviews and appeals of audit findings or determinations, the department will submit a final settlement report to the contractor fully substantiating disallowed costs, refunds, underpayments,~~

~~or adjustments to the contractor's financial statements, cost report, and final settlement:~~

~~(b) Where the contractor is pursuing judicial or administrative review or appeal in good faith regarding audit findings or determinations, the department may issue a partial final settlement to recover overpayments based on audit adjustments not in dispute.~~

~~(c) A preliminary settlement as issued by the department will become the final settlement if no audit is to be conducted:~~

~~(6) Repayment of amounts owed the department shall be as follows:~~

~~(a) The contractor shall have thirty days after the date the preliminary or final settlement report is submitted to the contractor to contest a settlement determination under WAC 275-38-960. After the thirty-day period has expired, a preliminary or final settlement will not be subject to review:~~

~~(b) A contractor found to have received either overpayments or erroneous payments under a preliminary or final settlement shall refund such payments to the state within thirty days after the date of the preliminary or final settlement report is submitted to the contractor:~~

~~(c) In the event the contractor fails to make repayment in the time provided in subsection (6)(b) of this section, the department shall either:~~

~~(i) Deduct the amount of refund due plus assessment of interest, at the rate of one percent per month on the unpaid balance, from payment amounts due the contractor; or~~

~~(ii) In the instance the contract has been terminated:~~

~~(A) Deduct the amount of refund due plus an assessment of interest, at the rate of one percent per month on the unpaid balance, from any payments due; or~~

~~(B) Assess the amount due plus interest, at the rate of one percent per month on the unpaid balance, on the amount due:~~

~~(iii) Interest on the unpaid balance owed the department shall begin to accrue on the thirty-first day following receipt of written notification to the contractor of the amount owed the department:~~

~~(d) Where the facility is pursuing timely filed judicial or administrative remedies in good faith regarding settlement issues, the contractor need not refund nor shall the department withhold from the facility current payment amounts the department claims to be due from the facility but which are specifically disputed by the contractor. If the judicial or administrative remedy sought by the facility is not granted after all appeals are exhausted or mutually terminated, the facility shall make payment of such amounts due plus interest accrued from the date of filing of the appeal, as payable on judgments, within sixty days of the date such decision is made:~~

~~(7) Payment of amounts owed the contractor shall be as follows: The department shall make payment of any underpayments within thirty days after the date the settlement report is submitted to the contractor)) When payment for services is first made following preliminary or final settlement for the period during which the services were provided, payment shall be at the most recent available settlement rate.~~

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: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 275-38-887 PROCEDURES FOR OVERPAYMENTS AND UNDERPAYMENTS. (1) The department shall make payment of underpayments determined by preliminary or final settlement within thirty days after the preliminary or final settlement report is submitted to the contractor.

(2) A contractor found to have received overpayments or payments in error as determined by preliminary or final settlement shall refund such payments to the department within thirty days after receipt of the preliminary or final settlement report as applicable.

(3) If a contractor fails to comply with subsection (2) of this section, the department shall:

(a) Deduct from current monthly amounts due the contractor the refund due the department and interest on the unpaid balance at the rate of one percent per month; or

(b) If the contract has been terminated:

(i) Deduct from any amounts due the contractor the refund due the department and interest on the unpaid balance at the rate of one percent per month; or

(ii) Pursue, as authorized by law and regulation, recovery of the refund due and interest on the unpaid balance at the rate of one percent per month.

(4) If a facility is pursuing timely filed administrative or judicial remedies in good faith regarding settlement report, the contractor need not refund. The department shall not withhold any refund or interest from current amounts due the facility if the refund is specifically disputed by the contractor on review or appeal. The department may recover portions of refunds not specifically disputed by the contractor on review or appeal and assess interest as provided in subsection (3) of this section. If the administrative or judicial remedy sought by the facility is not granted or is granted only in part after exhaustion or mutual termination of all appeals, the facility shall refund all amounts due the department within sixty days after the date of decision or termination plus interest as payable on judgments from the date the review was requested pursuant to WAC 275-38-950 and 275-38-960 to the date the repayment is made.

NEW SECTION

WAC 275-38-888 PRELIMINARY SETTLEMENT. (1) Effective January 1, 1985, the proposed preliminary settlement submitted by a contractor pursuant to WAC 275-38-886 shall use the prospective rate for the resident care and habilitation cost center at which the contractor was paid during the report period, including any client specific payment adjustments made for the resident care and habilitation cost center. Such payments shall be weighted by the number of paid resident days reported for the period each rate was in effect.

These payments shall be compared to the contractor's allowable costs for the resident care and habilitation cost center divided by total resident days.

(2) A contractor's administration, operations, and property cost center settlement rate shall be its prospective rate for the report period weighted by the number of paid resident days reported for the period each rate was in effect.

(3) A contractor's return on equity settlement rate shall be its prospective rate for the report period weighted by the number of paid resident days reported for the period each rate was in effect.

(4) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall review it for accuracy and either accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement shall become the preliminary settlement report. If rejected, the department shall issue a preliminary settlement report by cost center which shall fully substantiate disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(5) A contractor shall have thirty days after receipt of a preliminary settlement report to contest such report pursuant to WAC 275-38-950 and 275-38-960. Upon expiration of the thirty-day period, a preliminary settlement report shall not be subject to review.

NEW SECTION

WAC 275-38-889 FINAL SETTLEMENT. (1) If an audit is conducted, the department shall issue a final settlement report to the contractor after completion of the audit process, including exhaustion or mutual termination of reviews and appeals of audit findings or determinations.

(2) The final settlement shall be by cost center and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost reports and financial statements, reports, and schedules submitted by the contractor.

(a) The final settlement report shall use the prospective rate at which the contractor was paid during the report period, including any client specific payment adjustments made for resident care and training cost center. Such payments shall be weighted by the number of paid resident days reported for the period each rate was in effect. The department shall compare these payments to the contractor's audited allowable costs for the period.

(b) A contractor's administration operations and property cost center settlement rate shall be its prospective rate for the period weighted by the number of paid resident days reported for the period each rate was in effect.

(c) A contractor's return on equity rate shall be its prospective rate for the report period weighted by the number of paid resident days reported for the period each rate was in effect.

(3) If the contractor is pursuing an administrative or judicial review or appeal in good faith regarding audit findings or determinations, the department may issue a

partial final settlement report in order to recover overpayments based on audit findings or determinations not in dispute on review or appeal.

(4) A contractor shall have thirty days after receipt of a final settlement report to contest such report pursuant to WAC 275-38-950 and 275-38-960. Upon expiration of the thirty-day period, a final settlement report shall not be subject to review.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-890 INTERIM RATE. (1) A state facility's interim rate shall be determined utilizing the most recent desk-reviewed costs per resident day. These costs may be adjusted to incorporate federal, state, or department changes in program standards or services.

(2) A facility's interim rate may be adjusted for federal, state, or department changes in program standards or services.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-892 FINAL PAYMENT. (1) A settlement shall be determined to establish a state facility's final payment. A settlement shall be calculated as follows:

(a) If ~~((a))~~ the state facility's allowable costs for the report period are greater than their interim payment, the amount owed to the facility shall be the difference of cost minus interim payment.

(b) If ~~((a))~~ the state facility's allowable costs for the report period are less than their interim payments, the amount owed by the department shall be the difference of ~~((rate))~~ interim payment minus cost.

(2) The settlement process shall consist of a preliminary settlement and a final settlement.

(3) The preliminary settlement process ~~((with))~~ shall be as follows:

(a) State facilities shall submit a proposed settlement report with their cost report.

(b) Within one hundred twenty days after receipt of the proposed settlement, the department shall verify the accuracy of the proposal and shall issue a preliminary settlement substantiating the settlement amount.

(4) The final settlement process ~~((with))~~ shall be as follows:

(a) After completion of the audit process, the department shall submit a final settlement report to the state facility substantiating disallowed costs, refunds, underpayments, or adjustments to the contractor's financial statements, cost report, and final settlement.

(b) A preliminary settlement as issued by the department shall become the final settlement if an audit is not to be conducted pursuant to WAC 275-38-620.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-900 ADJUSTMENTS REQUIRED DUE TO ERRORS OR OMISSIONS. (1) The department may adjust prospective rates ((are subject to adjustment by the department)) in accordance with subsection (1) of this section and WAC 275-38-570, as a result of cost report or computational errors or omissions by the department or by the contractor. The department ((with)) shall notify the contractor in writing of each adjustment and of the effective date, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section ((with)) shall be effective as of the effective date of the original rate, whether the adjustment is solely for computing a preliminary or final settlement or for the purpose of modifying past or future rate payments as well.

(2) If a contractor claims an error ~~((an))~~ or omission based upon incorrect cost reporting, the contractor shall submit amended cost report pages ((shall be prepared and submitted by the contractor)). Amended pages shall be accompanied by the certification required by WAC 275-38-560 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted ((for settlement purposes)) unless the amendments meet the requirements of WAC 275-38-570(, but may be used for purposes of revising a prospective rate)). If the department determines the changes made by ~~((the))~~ such amendments are ~~((determined to be))~~ material ~~((by the department according to standards established by the department)), ((such))~~ the amended pages shall be subject to field audit. If ~~((a field audit))~~ the department determines the amendments are incorrect or otherwise unacceptable from a field audit, or other information available to the department, any rate adjustment based on the amendment shall be null and void. Future rate payment increases, if any, scheduled as a result of such an amendment shall be cancelled immediately. Payments based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay or commence repayment for an amount he or she owes the department resulting from an error or omission(, or commence repayment) within sixty days after receipt of notification of the rate adjustment or in accordance with a schedule determined by the department(, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set forth in WAC 275-38-960)). If the determination is contested in accordance with WAC 275-38-950 and 275-38-960, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(4) The department shall pay any amount owed the contractor as a result of a rate adjustment within thirty days after the department notifies the contractor of the rate adjustment.

(5) No adjustments ((with)) for any purpose shall be made to a rate more than one hundred twenty days after the ((annual settlement for the period the rate was effective has become)) final audit narrative and summary is sent to the contractor or more than one hundred twenty days after the preliminary settlement becomes the final settlement.

(a) A final settlement within this one hundred twenty day time limit may be reopened for the sole purpose of making an adjustment to a prospective rate in accordance with WAC 275-38-900.

(b) Only such an adjustment to a prospective rate and its related computation shall be subject to review if timely contested pursuant to WAC 275-38-950 and 275-38-960. Other actions relating to settlement reopened shall not be subject to review unless previously contested in a timely manner.

NEW SECTION

WAC 275-38-903 RECEIVERSHIP. (1) If the IMR facility is providing care to recipients of state medical assistance is placed under receivership pursuant to chapter 388-98 WAC, the receiver shall:

(a) Become the Medicaid contractor for the duration of the receivership period;

(b) Assume all reporting responsibilities for new contractors;

(c) Assume all other responsibilities for new contractors set forth in chapter 275-38 WAC; and

(d) Be responsible for the refund of Medicaid rate payments pursuant to chapter 275-38 WAC in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership, the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

(i) The return on equity cost center rate, or

(ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court;

(b) Start-up costs and costs of repairs, replacements, and additional staff needed for resident health, training, security, and welfare. To the extent such costs can be covered through the return on equity cost center rate, if any, no additional money will be added to the rate; and

(c) Any other allowable costs as set forth in chapter 275-38 WAC.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure from revenue generated by the facility which is not obligated to the operation of the facility.

(c) If the department has not fully recovered any emergency or transitional expenditure at the termination of receivership, the department may:

(i) File an action against the former licensee or owner to recover such expenditure; or

(ii) File a lien on the facility or on the proceeds of the sale of the facility.

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

(a) The range of compensation for nonstate IMR facility managers;

(b) Experience and training of the receiver;

(c) The size, location, and current condition of the facility;

(d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the facility's Medicaid reimbursement as follows:

(a) The Medicaid reimbursement rate for the former owner or licensee shall be what it was prior to receivership. Unless the former owner or licensee may request prospective rate revisions from the department as set forth in chapter 275-38 WAC;

(b) The Medicaid reimbursement rate for licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in chapter 275-38 WAC.

NEW SECTION

WAC 275-38-906 ADJUSTMENTS TO PROSPECTIVE RATES. (1) Prospective rates shall be maximum payment rates for contractors for the periods to which they apply, except as otherwise provided in WAC 275-38-906. The department shall not grant rate adjustments for cost increases which are or were subject to management control or negotiation including, but not limited to, all lease cost increases, or for cost increases not expressly authorized in subsections (2) and (3) of this section.

(2) The department shall adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.

(3) The department shall adjust rates for increased costs that must be incurred and which cannot be otherwise met through the contractor's prospective rate, for the following:

(a) Program changes required by the department;

(b) Changes in staffing levels or consultants at a facility required by the department; and

(c) Changes required by survey.

(4) Contractors requesting an adjustment shall submit:

(a) A financial analysis showing the increased cost and an estimate of the rate increase, computed according to allowable methods, necessary to fund the cost;

(b) A written justification for granting the rate increase; and

(c) A certification and supporting documentation which shows the changes in staffing, or other improvements, have been commenced or completed.

(5) Contractors receiving prospective rate increases pursuant to WAC 275-38-906 must submit quarterly reports, beginning the first day of the month following

the date the increase is granted, showing how the additional rate funds were spent. If the funds were not spent for change or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.

(6) A contractor requesting an adjustment pursuant to subsection (3)(c) of this section shall submit a written plan specifying additional staff to be added and the resident needs the facility has been unable to meet due to lack of sufficient staff.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider:

- (a) Whether additional staff requested by a contractor is appropriate in meeting resident needs;
- (b) Comparisons of staffing levels of facilities having similar characteristics;
- (c) The physical layout of the facility;
- (d) Supervision and management of current staff;
- (e) Historic trends in under-spending of a facility's resident care and habilitation;
- (f) Numbers and positions of existing staff; and
- (g) Other resources available to the contractor under subsection (3) of this section.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-925 BILLING PROCEDURES. (1) A contractor shall bill the department each month by completing and returning the IMR statement provided by the department. The IMR statement shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a resident until a department ("~~notification to recipient in a Title XIX facility~~" form f) award letter(7)) relating to the resident has been received. At that time the contractor may bill for service provided back through the date the resident was admitted or became eligible.

(3) Billing shall not cover the day of a resident's death, discharge, or transfer from the IMR facility.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-940 SUSPENSION OF PAYMENT. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments (~~(with)~~) shall be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of his or her duties are refused access to an IMR or are not provided with existing appropriate records. Payments (~~(with)~~) shall be released as soon as such access or records are provided.

(c) A refund in connection with (~~(an annual)~~) a settlement or rate adjustment is not paid by the contractor

when due. The amount withheld (~~(with)~~) shall be limited to the unpaid amount of the refund.

(d) Payments for the final (~~(thirty days of)~~) service under a contract (~~(with)~~), pursuant to WAC 275-38-530, shall be held pending final settlement when the contract is terminated.

(2) No payment (~~(with)~~) shall be withheld until written notification of the suspension is given to the contractor, stating the reason therefor.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-945 TERMINATION OF PAYMENTS. All Medicaid Title XIX payments to a contractor (~~(with)~~) shall end no later than (~~(thirty)~~) sixty days after any of the following occurs:

- (1) A contract expires, is terminated or is not renewed;
- (2) A facility license is revoked; or
- (3) A facility is decertified as a Title XIX facility.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-955 RECOUPMENT OF UNDISPUTED OVERPAYMENTS. The department is authorized to withhold from the IMR current payment all amounts found by (~~(proposed)~~) preliminary or final settlement to be overpayments not identified by the IMR and challenged as overpayments as part of a good-faith administrative or judicial review. Contested amounts retained by the IMR pursuant to this section may be subject to recoupment by the department from the IMR current payment upon completion of judicial and administrative review procedures to the extent the department's position or claims are upheld.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-960 ADMINISTRATIVE REVIEW PROCESS. (1) Within thirty days after a contractor is notified of an action or determination made by the department pursuant to a rule, contract provision, or policy statement, the contractor wishes to challenge, the contractor shall request in writing the director (~~(of the division of developmental disabilities)~~) or his or her designee review such determination. The request shall be forwarded to the office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters, or the director, division of developmental disabilities, for other matters (such as rates, desk reviews, and settlements). The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the contractor's or licensed administrator's contention the determination was erroneous. Copies of any documentation the contractor intends to rely on to support the contractor's position shall be included with the request.

(2) After receiving a request meeting the criteria ((in subsection (1) of this section)), the ((director of the division of developmental disabilities)) department will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no earlier than fourteen days after the contractor was notified of the conference and no later than ((thirty)) ninety days after a properly completed request is received unless both parties agree in writing to a specific later date. The conference may be conducted by telephone unless either the department or the contractor requests in writing the conference be held in person.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation requested by the department which the contractor is required to maintain for audit purposes pursuant to WAC 275-38-555, and any documentation on which the contractor intends to rely on to support the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) ((Unless informal)) Regardless of whether agreement has been reached at the conference, a written decision by the appropriate director ((of the division of developmental disabilities)) or his or her designee will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) ((If the)) A contractor ((desires review of an adverse decision of the director of the division of developmental disabilities, the contractor shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW)) may appeal an adverse decision of the director or his or her designee by filing a written request for a hearing with the department's office of hearings (mailing address: P.O. Box 2465, Olympia, Washington 98504). The request must be filed within thirty days of the date the contractor received the decision of the director. A copy of the director's decision being appealed must be attached to the request for hearing. The request must be signed by the contractor or the administrator of the facility, and shall state as specifically as practicable, the issue or issues and regulation or regulations involved, and the grounds for contending the director's decision is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

REPEALER

The following sections of the Washington Administrative Code are repealed;

WAC 275-38-575 REPORTING FOR AN AB-BREVIATED PERIOD.

WAC 275-38-735 DISCLOSURE AND APPROVAL OF JOINT FACILITY COST ALLOCATION.

WAC 275-38-905 REQUESTS FOR REVISION OF A PROSPECTIVE RATE.

WSR 88-13-001

PROPOSED RULES

EVERETT COMMUNITY COLLEGE

[Filed June 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Washington State Community College District V intends to adopt, amend, or repeal rules concerning Edmonds Community College student rights and responsibilities code, WAC 132E-120-050, 132E-120-060, 132E-120-070 and 132E-120-080;

that the institution will at 2:00 p.m., Monday, August 15, 1988, in the Administrative Conference Room, Everett Community College, 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.50.040 and chapter 28B.19 RCW.

The specific statute these rules are intended to implement is RCW 28B.50.040 and chapter 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before August 15, 1988.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Robert J. Drewel
President
Everett Community College
801 Wetmore
Everett, WA 98201
(206) 259-7151, ext. 202

Dated: June 1, 1988

By: Robert J. Drewel
President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 132E-120-050, 132E-120-060, 132E-120-070 and 132E-120-080, Edmonds Community College student rights and responsibilities code.

Statutory Authority: RCW 28B.50.040 and chapter 28B.19 RCW.

Summary of the Rule(s): Repeal of WAC 132E-120-050, 132E-120-060, 132E-120-070 and 132E-120-080, Edmonds Community College student rights and responsibilities code. Edmonds Community College is no longer in District V and has filed student rights and responsibilities under District 23.

Description of the Purpose of the Rule(s): The board of trustees of Washington Community College District V proposes this repeal. Edmonds Community College is now in District 23.

Reasons Supporting the Proposed Rule(s): Edmonds Community College is no longer in District V.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Robert J. Drewel, President, Everett Community College, 801 Wetmore, Everett, WA 98201, (206) 259-7151, ext. 202.

Name of Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Washington Community College District V.

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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132E-120-050 EDMONDS COMMUNITY COLLEGE STUDENT RIGHTS AND RESPONSIBILITIES CODE—PURPOSE.

WAC 132E-120-060 EDMONDS COMMUNITY COLLEGE STUDENT RIGHTS AND RESPONSIBILITIES CODE—STUDENT FREEDOMS.

WAC 132E-120-070 EDMONDS COMMUNITY COLLEGE STUDENT RIGHTS AND RESPONSIBILITIES CODE—STUDENT RESPONSIBILITIES.

WAC 132E-120-080 EDMONDS COMMUNITY COLLEGE STUDENT RIGHTS AND RESPONSIBILITIES CODE—DISCIPLINARY PROCEDURES.

This action is taken pursuant to Notice No. WSR 88-09-043 filed with the code reviser on April 18, 1988. 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 28A.02-.100 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 May 27, 1988.

By Frank B. Brouillet
Superintendent of Public Instruction

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-164-005 INTRODUCTION.
- WAC 392-164-010 PURPOSES.
- WAC 392-164-015 DEFINITIONS.
- WAC 392-164-020 ELIGIBILITY REQUIREMENTS.
- WAC 392-164-025 FORMERLY MIGRATORY CHILDREN.
- WAC 392-164-030 BILINGUAL EDUCATION.
- WAC 392-164-035 STUDENT IDENTIFICATION.
- WAC 392-164-040 STUDENT INSURANCE.
- WAC 392-164-045 PROPERTY, FACILITIES, AND EQUIPMENT.
- WAC 392-164-050 PROJECT DESCRIPTIONS.
- WAC 392-164-055 DAY CARE.
- WAC 392-164-060 LOCAL PARENT ADVISORY COUNCILS.
- WAC 392-164-065 LOCAL PARENT ADVISORY COUNCIL APPEAL PROCESS FOR PROJECTS.
- WAC 392-164-070 LOCAL PARENT ADVISORY COUNCIL APPEAL PROCESS FOR PAC.
- WAC 392-164-075 GRIEVANCE PROCEDURE.
- WAC 392-164-080 STATE ADVISORY COMMITTEE.
- WAC 392-164-085 ACCOUNTABILITY.
- WAC 392-164-090 ADMINISTRATIVE COSTS.
- WAC 392-164-095 FISCAL CONSTRAINTS.

WSR 88-13-002

ADOPTED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 88-15—Filed June 3, 1988]

WSR 88-13-003

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed June 3, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the repeal of WAC 392-164-005 through 392-164-095.

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:

- New WAC 314-12-037 Furnishing of information and/or documentation to the board concerning compliance with RCW 66.28.010—Oath required—Form of affidavit (nonretail).
- New WAC 314-12-038 Furnishing of information and/or documentation to the board concerning compliance with RCW 66.28.010—Oath required—Form of affidavit (retail);

that the agency will at 9:30 a.m., Wednesday, March 15, 1989, 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 and 66.08.130.

The specific statute these rules are intended to implement is RCW 66.28.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 15, 1989.

Dated: June 2, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-12-037 Furnishing of information and/or documentation to the board concerning compliance with RCW 66.28.010—Oath required—Form of affidavit (nonretail); and 314-12-038 Furnishing of information and/or documentation to the board concerning compliance with RCW 66.28.010—Oath required—Form of affidavit (retail).

Description of Purpose: The two rule proposals to be considered are refinements of earlier proposals which the board considered at hearings held March 25, 1988, (see WSR 88-05-012) and April 5, 1988, (see WSR 88-06-054). Testimony received at those hearings was opposed to the adoption of additional reporting requirements.

Representatives from all segments of the liquor industry (manufacturers, wholesalers, and retailers) testified that they felt the board had adequate rules in place presently to address the problem of violations of the "tied-house" law and that increased enforcement of existing provisions would be preferable to adding new provisions.

A substantial amount of support was also expressed for amendment to RCW 66.28.010 in a manner which would permit those types of business entertainment expenses which are commonly accepted business practices within the economy generally and which do not contravene the original purpose of the "tied-house" law.

In view of the interpretation of RCW 66.28.010 by the attorney general in AGLO 1973, No. 28, and the failure of the last session of the legislature to amend that statute, the existing law prohibiting business entertainment of retailers must be enforced unless and until changed.

The board still is of the opinion that legislative action to bring the law into conformity with commonly accepted business practices is preferable in resolving this issue. Consequently, an enhanced enforcement and licensee

education program will be implemented immediately with further consideration of these rule changes to be set for March 15, 1989. The board will work with the interim study being done of the Liquor Act by the House Commerce and Labor Committee to assist in arriving at a realistic solution to the business entertainment issue for consideration by the next legislature. If, however, no legislative action is taken to change the current state of the law, or to give the board specific guidelines in enforcement methodology, the board will further assess the necessity for the adoption of WAC 314-12-037 and 314-12-038 at the scheduled March 15, 1989, hearing.

Statutory Authority: RCW 66.08.030 and 66.08.130.

Statutes Implemented by the Rule: RCW 66.28.010.

Summary of Rule: These new sections establish requirements for periodic certification, under oath, of compliance with the requirements of the "tied-house" law. Specifically, that the reporting licensees have not engaged in those types of business entertainment of retailers (sometimes called "trade spending") which the attorney general has ruled are in violation of RCW 66.28.010.

Reasons Supporting Proposed Action: In AGLO 1973, No. 28, the attorney general ruled that RCW 66.28.010 was an unqualified prohibition on "money or moneys' worth" being provided for a licensed retailer by a liquor manufacturer, importer, or wholesaler. This means that any money spent by a manufacturer, importer or wholesaler on entertainment of a retailer is prohibited.

The 1987 legislature had before it a bill, SB 6612, which would have permitted those business entertainment activities as an exception to RCW 66.28.010. The legislature declined to do so, and the "tied-house" law remained as the attorney general had interpreted it.

The board has received legal advice to the effect that the above described legislative action constitutes a confirmation of the 1973 attorney general's opinion holding that the prohibition on "money or moneys' worth" in RCW 66.28.010 is unqualified and that the types of activities referenced in the proposed rule are violations of that statute.

The legislature was made aware of the board's position that these activities were relatively harmless and should be exempt from the "tied-house" prohibition. Attached, and incorporated herein by this reference, is a memo dated February 1, 1987, to Eleanor Lee, Chair of the Senate Economic Development and Labor Committee, setting forth the board's position, which was submitted in conjunction with testimony before that committee by the board's legislative liaison. The legislature, after considering the board's position, nevertheless determined that these practices should remain prohibited.

The board believes that in view of this legislative action and of the heavy opposition to exempting any form of business entertainment from RCW 66.28.010 by the beer and wine wholesale industry, an appropriate redirection of resources into enforcement of this prohibition is necessary. Until the hearing of this matter, the board will be implementing an education/enforcement program and again seeking legislative direction. If the legislature again fails to act, the board will consider this as

confirmation of the necessity to adopt the affidavit requirement as well as such other measures as may be necessary to ensure that business entertainment, as prohibited by RCW 66.28.010, comes to an end.

Agency Personnel Involved: In addition to the board, the following agency and attorney general's office personnel have responsibility for drafting, implementing and enforcing these rules: Janice Lee Britt, Supervisor, Manufacturers, Importers and Wholesalers Division, phone (206) 753-6273; Carter Mitchell, Information Officer, phone (206) 753-6276; and John G. Hennen, Senior Assistant Attorney General, Chief Counsel, Washington State Liquor Control Board, phone (206) 753-6283, Capital Plaza Building, Olympia, Washington 98504.

Person or Organization Proposing Rules: Washington State Liquor Control Board.

Agency Comments: The board will enforce the "tied-house" law as enacted by the legislature and as interpreted by the attorney general. Whether it will require affidavits or not remains to be seen. The interim progress of licensee education and enhanced enforcement will be evaluated by the board prior to the hearing in this matter. The board would prefer (as it expressed to the last legislative session) that RCW 66.28.010 be amended to permit those activities which, in the board's view, are simply harmless and commonly accepted business practices (i.e., business meals, and other entertainment of moderate value) which do not tend to result in control of those in the retail liquor sector by those in the nonretail sector. Such a change would allow concentration of board resources on the truly harmful "tied-house" violations which do result in improper control of one tier by another. Until the law changes, however, the board must administer what the legislature has enacted.

Necessity of Rules: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: These proposed rules will require filing of one additional document in connection with the annual renewal of license. It will further require filing of a certification at such times as complaints may be received and investigations commenced by the board into violations of RCW 66.28.010. The overall cost impact on industry members will be minimal.

NEW SECTION

WAC 314-12-037 FURNISHING OF INFORMATION AND/OR DOCUMENTATION TO THE BOARD CONCERNING COMPLIANCE WITH RCW 66.28.010—OATH REQUIRED—FORM OF AFFIDAVIT (NONRETAIL). (1) In order to facilitate the enforcement of RCW 66.28.010 and WAC 314-12-140 in the area of prohibited gifts of "moneys' worth," all holders of licenses to manufacture, import, or sell at wholesale beer or wine in the state of Washington, as well as out-of-state manufacturers holding certificates of approval shall furnish, along with the documentation required for the annual renewal of their license or certificate of approval, a statement, under oath, in the form specified in subsection (5) of this section. Failure or refusal to furnish the required certification will be good and sufficient cause for revocation of any license or certificate of approval held by a business which fails or refuses to furnish the requested certification.

(2) All licensees and certificate of approval holders shall maintain complete and accurate records of all expenditures made on behalf of the licensee by any person associated in any way with the licensee for

any form of business entertainment. This shall include, but not be limited to, expenditures for food and refreshment, expenses for admission and other related fees for sporting or other entertainment activities. The records shall be available for inspection by the board or by a person appointed by it in writing pursuant to RCW 66.08.130 and said records shall be maintained for two years.

(3) The records shall clearly indicate each expenditure, regardless of the amount, whether or not the recipient was in any way affiliated with a licensed retailer of beer, wine, or spirits. "Affiliated with" as used herein shall include ownership interest, employment, or any form of agency on behalf of a licensed retailer.

(4) The certification required in subsection (1) of this section to be submitted in connection with an application for renewal of license may also be requested by the board in connection with any complaint or investigation concerning the "moneys' worth" prohibitions of RCW 66.28.010. Failure to submit the appropriate documentation within ten days of receipt of a request from the board, or such further time as the board may allow in a specific case, shall be good and sufficient cause for suspension or revocation of license privileges.

(5) The certification required by this section shall be in the following form:

"Affidavit of licensee, or certificate of approval holder, or agent or representative thereof, concerning compliance with RCW 66.28.010.

I, _____, having been duly sworn upon oath depose and say:

That I am aware that RCW 66.28.010 prohibits the giving of money or moneys' worth by a licensed manufacturer, importer or wholesaler, or the holder of a certificate of approval, to a licensed retailer. I further understand that as construed in Attorney General's Letter Opinion 1973 No. 28, RCW 66.28.010 is an absolute and unqualified prohibition on gifts of money or moneys' worth regardless of the value of said gifts.

That I understand that the furnishing of food or refreshment, and the expenditure of money for admissions and other related fees for sporting or other entertainment activities for the benefit of anyone affiliated with a licensed retailer constitutes a violation of RCW 66.28.010 regardless of the amount of money expended or the value of the "moneys' worth" furnished.

That I hereby certify on behalf of the licensee or certificate of approval holder listed below that (a) I am authorized to execute this certificate on behalf of the licensee or certificate of approval holder, and that (b) during the reporting period specified below, no expenditures have been made for the benefit of any person affiliated with a licensed retailer in the state of Washington for food or refreshment, nor has any expenditure of money for admissions and other related fees for sporting or other entertainment activities been made for the benefit of any person affiliated with a licensed retailer, with the following exceptions: (Describe here any such expenditures along with any extenuating or mitigating circumstances or any other explanation desired. Attach additional sheets of paper if necessary.)

That I am aware that RCW 9A.72.030 provides that it is a crime (class C felony) for a person, with intent to mislead a public servant in the performance of his duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name: _____

Licensed Trade Name of Manufacturer, Importer, Wholesaler or Certificate of Approval Holder: _____

License or Certificate of Approval No. _____

Reporting Period: _____ to _____

Date: _____

SUBSCRIBED AND SWORN TO Before me this ___ day of ____, 19__.

Notary Public in and for the State of Washington, residing at _____ My appointment expires: _____."

NEW SECTION

WAC 314-12-038 FURNISHING OF INFORMATION AND/OR DOCUMENTATION TO THE BOARD CONCERNING COMPLIANCE WITH RCW 66.28.010—OATH REQUIRED— FORM OF AFFIDAVIT (RETAIL). (1) In order to facilitate the enforcement of RCW 66.28.010 and WAC 314-12-140 in the area of prohibited gifts of "moneys' worth," all holders of licenses to sell liquor at retail in the state of Washington shall furnish, along with the documentation required for the annual renewal of their license, a statement, under oath, in the form specified in subsection (3) of this section. Failure or refusal to furnish the required certification will be good and sufficient cause for revocation of any license held by a business which fails or refuses to furnish the requested certification.

(2) The certification required in subsection (1) of this section to be submitted in connection with an application for renewal of license may also be requested by the board in connection with any complaint or investigation concerning the "moneys' worth" prohibitions of RCW 66.28.010. Failure or refusal to submit the appropriate documentation within ten days of receipt of a request from the board, or such further time as the board may allow in a specific case, shall be good and sufficient cause for suspension or revocation of license privileges.

(3) The certification required by this section shall be in the following form:

"Affidavit of retail licensee concerning compliance with RCW 66.28.010.

I, _____, having been duly sworn upon oath depose and say:
That I am aware that RCW 66.28.010 prohibits solicitation or acceptance by a licensed retailer of money or moneys' worth from a licensed manufacturer, importer or wholesaler, or the holder of a certificate of approval. I further understand that as construed in Attorney General's Letter Opinion 1973, No. 28, RCW 66.28.010 is an absolute and unqualified prohibition on gifts of money or moneys' worth regardless of the value of said gifts.

That I understand that the solicitation or acceptance of food or refreshment, or admissions and other related fees for sporting or other entertainment activities by a licensed retailer from a manufacturer, importer or wholesaler, or the holder of a certificate of approval, constitutes a violation of RCW 66.28.010 regardless of the amount of money expended or the value of the "moneys' worth" furnished.

That I hereby certify on behalf of the retail licensee listed below that (a) I am authorized to execute this certificate on behalf of the retail licensee, and that (b) during the reporting period specified below, no person affiliated with the licensed retail business has solicited or accepted food or refreshment or admission to or other related fees in connection with sporting or other entertainment activities from a licensed manufacturer, importer or wholesaler, or the holder of a certificate of approval, with the following exceptions: (Describe here any such expenditures along with any extenuating or mitigating circumstances or any other explanation desired. Attach additional sheets of paper if necessary.)

That I am aware that RCW 9A.72.030 provides that it is a crime (class C felony) for a person, with intent to mislead a public servant in the performance of his duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name: _____
Licensed Trade Name of Retail Licensee: _____
License No. _____
Reporting Period: _____ to _____
Date: _____

SUBSCRIBED AND SWORN TO Before me this ___ day of _____, 19__.

Notary Public in and for the State of Washington, residing at _____
My appointment expires: _____.

WSR 88-13-004

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Forest Fire Advisory Board)
[Memorandum—June 3, 1988]**

The next meeting of the Forest Fire Advisory Board is scheduled for Friday, July 15, 1988, from 8:30 a.m. to 12 noon. The meeting location is Fire Control's Conference Room, First Floor, Building 5, Rowesix, Lacey.

**WSR 88-13-005
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed June 3, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 29, 1988.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.28.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 29, 1988.

Dated: May 31, 1988
By: Judith Merchant
for Joseph R. Blum
Director

STATEMENT OF PURPOSE

Title: WAC 220-20-060 Commercial fishing license transfer—Notarization.

Description of Purpose: Require notarization for transfer of license.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: A transferor of a commercial fishing license will be required to have his signature notarized; this prevents fraudulent transfer.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; Implementation: Ray Ryan, 115 General Administration Building, Olympia, Washington, 753-6517; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

This rule is proposed by the Washington Department of Fisheries.

Comments: No public hearing is scheduled.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

NEW SECTION

WAC 220-20-060 COMMERCIAL FISHING LICENSE TRANSFER—NOTARIZATION. Any person making application to transfer a commercial fishing license must have the signature of the transferor notarized, and absent such notarization the department will not transfer a license, except the department may transfer the license of a decedent without notarization but with appropriate legal certification supporting the transfer.

WSR 88-13-006
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 88-30—Filed June 3, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 regulation is needed for the orderly transfer of licenses, and verifies the transferee's right of possession of the license.

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

This rule is promulgated pursuant to RCW 75.08.080 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 May 31, 1988.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-20-06000A COMMERCIAL FISHING LICENSE TRANSFER—NOTARIZATION. Any person making application to transfer a commercial fishing license must have the signature of the transferor notarized, and absent such notarization the department will not transfer a license, except the department may transfer the license of a decedent without notarization but with appropriate legal certification supporting the transfer.

WSR 88-13-007
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
(Noxious Weed Board)

[Order 23, Resolution No. 23—Filed June 3, 1988]

Be it resolved by the State Noxious Weed Board, acting at Ellensburg, Washington, that it does adopt the annexed rules relating to noxious weed region descriptions, regions in which Class B weeds will be designated, and definitions which will apply throughout chapter 16-750 WAC.

We, the State Noxious Weed 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 order to proceed with local noxious weed control programs it is necessary to file these emergency rules which will be considered later at a hearing.

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

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 June 3, 1988.

Arlie Clinkenbeard
Chairman
By Catherine Hovanic
Executive Secretary

NEW SECTION

WAC 16-750-003 DEFINITIONS. (1) The definitions set forth in this subsection shall apply throughout this chapter, unless the context otherwise plainly requires:

(a) "Board" and "state board" means the noxious weed control board of this state, or a duly authorized representative.

(b) "Director" means the director of agriculture of this state, or a duly authorized representative.

(c) "Department" means the department of agriculture of this state.

(d) "Person" means any individual, partnership, corporation, firm, or any other entity.

(2) The definitions set forth in this subsection shall apply throughout this chapter, chapter 17.10 RCW, and any rules adopted thereunder unless the context otherwise plainly requires:

(a) "Control" means to suppress or contain a noxious weed within a geographical area.

(b) "Suppress" means to reduce the incidence or severity of a noxious weed within a geographical area.

(c) "Contain" means to confine a noxious weed to a geographical area.

(d) "Eradicate" means to eliminate a noxious weed within a geographical area.

(e) "Prevent the spread of noxious weeds" means to forestall their introduction and/or spread within a geographical area.

(f) "Class B designate" means those Class B noxious weeds whose populations in a region or area are such that all seed production can be reasonably prevented within a calendar year.

(g) "Class B nondesignate" means those Class B noxious weeds whose populations in a region or area are such that all seed production cannot be reasonably prevented in a calendar year.

(3) Any county noxious weed control board may enhance the clarity of any definition contained in subsection (2) of this section, making that definition more specific, but shall not change its general meaning.

NEW SECTION

WAC 16-750-004 NOXIOUS WEED REGION DESCRIPTIONS. The state of Washington is divided into ten regions for the purpose of designating Class B noxious weeds.

(1) Region 1 description. A region consisting of all lands lying within the boundaries of Clallam and Jefferson counties.

(2) Region 2 description. A region consisting of all lands lying within the boundaries of Whatcom, Skagit, Snohomish, San Juan, and Island counties.

(3) Region 3 description. A region consisting of:

(a) All lands lying within the boundaries of Okanogan County.

(b) All lands lying within the boundaries of Chelan and Douglas counties and north of Highway 2.

(4) Region 4 description. A region consisting of:

(a) All lands lying within the boundaries of Ferry, Stevens, and Pend Oreille counties.

(b) All lands lying within the boundaries of Spokane County and north of the Spokane River.

(5) Region 5 description. A region consisting of all lands lying within the boundaries of Grays Harbor, Mason, Kitsap, Thurston, Pierce, and King counties.

(6) Region 6 description. A region consisting of:

(a) All lands lying within the boundaries of Kittitas and Grant counties.

(b) All lands lying within the boundaries of Chelan and Douglas counties and south of Highway 2.

(c) All lands lying within the boundaries of Yakima County and north of Highway 12 from the Yakima — Lewis County line to Yakima and north of Highway 82 from Yakima to the Yakima — Kittitas County line.

(7) Region 7 description. A region consisting of:

(a) All lands lying within the boundaries of Lincoln and Whitman counties.

(b) All lands lying within the boundaries of Spokane County and south of the Spokane River.

(c) All lands lying with the boundaries of Ranges 31E, 32E, 33E, 34E, 35E, 36E, 37E, and 38E of Adams County.

(8) Region 8 description. A region consisting of all lands lying within the boundaries of Pacific, Lewis, Wahkiakum, Cowlitz, Skamania, and Clark counties.

(9) Region 9 description. A region consisting of:

(a) All lands lying within the boundaries of Benton and Klickitat counties.

(b) All lands lying within the boundaries of Yakima County and south of Highway 12 from the Yakima — Lewis County line to Yakima and south of Highway 82 from Yakima to the Yakima — Kittitas County line.

(c) All lands lying within the boundaries of Franklin County and west of Highway 395.

(10) Region 10 description. A region consisting of:

(a) All lands lying within the boundaries of Asotin, Garfield, Columbia, and Walla Walla counties.

(b) All lands lying within the boundaries of Franklin County and east of Highway 395.

AMENDATORY SECTION (Amending Order 22, Resolution No. 22, filed 3/7/88)

WAC 16-750-011 STATE NOXIOUS WEED LIST—CLASS B NOXIOUS WEEDS. ((Class B noxious weeds are as follows:

Common Name	Scientific Name
apera, interrupted	<i>Apera interrupta</i>
blueweed	<i>Echium vulgare</i>
broom, Scotch	<i>Cytisus scoparius</i>
bryony, white	<i>Bryonia alba</i>
bugloss, common	<i>Anchusa officinalis</i>
camelthorn	<i>Athagi pseudathagi</i>
catsear, spotted	<i>Hypochaeris radicata</i>
daisy, oxeye	<i>Chrysanthemum leucanthemum</i>
dogtailgrass, hedgehog	<i>Cynosurus echinatus</i>
foxtail, slender	<i>Alopecurus myosuroides</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
gorse	<i>Ulex europaeus</i>
hawkweed, orange	<i>Hieracium aurantiacum</i>
hawkweed, yellow	<i>Hieracium pratense</i>
indigobush	<i>Amorpha fruticosa</i>
knapweed, black	<i>Centaurea nigra</i>
knapweed, brown	<i>Centaurea jacea</i>
knapweed, diffuse	<i>Centaurea diffusa</i>
knapweed, meadow	<i>Centaurea jacea X nigra</i>
knapweed, Russian	<i>Centaurea repens</i>
knapweed, spotted	<i>Centaurea maculosa</i>
lepyrodichis	<i>Lepyrrodichis holosteoides</i>
lythrum, purple	<i>Lythrum salicaria</i>
medusahead	<i>Taeniatherum caput-medusae</i>
nutsedge, yellow	<i>Cyperus esculentus</i>
oxtongue, hawkweed	<i>Picris hieracioides</i>
peaweed, Austrian	<i>Sphacrophysa salsula</i>
pepperweed, perennial	<i>Lepidium latifolium</i>
ragwort, tansy	<i>Senecio jacobaea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
sandbur, longspine	<i>Cenchrus longispinus</i>
skeletonweed, rush	<i>Chondrilla juncea</i>
sowthistle, perennial	<i>Sonchus arvensis</i>
spurge, leafy	<i>Euphorbia esula</i>
starthistle, yellow	<i>Centaurea solstitialis</i>
thistle, musk	<i>Carduus nutans</i>
thistle, plumelss	<i>Carduus acanthoides</i>
thistle, Scotch	<i>Onopordum acanthium</i>
toadflax, Dalmatian	<i>Linaria genistifolia spp. dalmatica</i>
ventenata	<i>Ventenata dubia</i>
watermilfoil, Eurasian	<i>Myriophyllum spicatum</i>)

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(1) <u>apera, interrupted</u> <u>Apera interrupta</u>	(a) <u>regions 1,2,3,5,6,8,9,10</u> (b) <u>Ferry, Stevens, and Pend Oreille counties of region 4</u> (c) <u>Lincoln and Adams counties of region 7.</u>	(9) <u>dogtailgrass, hedgehog</u> <u>Cynosurus echinatus</u>	
(2) <u>blueweed</u> <u>Echium vulgare</u>	(a) <u>regions 1,2,3,4,5,6,8,9,10</u> (b) <u>region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42, thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.</u>	(10) <u>foxtail, slender</u> <u>Alopecurus myosuroides</u>	(a) <u>regions 1,2,3,5,6,8,9,10</u> (b) <u>Ferry, Stevens, Pend Oreille counties of region 4</u> (c) <u>Adams and Whitman counties of region 7.</u>
(3) <u>broom, Scotch</u> <u>Cytisus scoparius</u>	(a) <u>regions 3,4,6,7,10</u> (b) <u>region 9 except that area lying west of the Klickitat River in Klickitat County.</u>	(11) <u>goatgrass, jointed</u> <u>Aegilops cylindrica</u>	(a) <u>regions 1,2,5,8</u> (b) <u>Ferry County of region 4</u> (c) <u>Grant and Adams counties of region 6</u> (d) <u>Franklin County of regions 9 and 10</u> (e) <u>Intercounty Weed District No. 51.</u>
(4) <u>bryony, white</u> <u>Bryonia alba</u>	(a) <u>regions 1,2,3,4,5,6,7,8,9</u> (b) <u>Franklin County of region 10.</u>	(12) <u>gorse</u> <u>Ulex europaeus</u>	(a) <u>regions 3,4,6,7,9,10</u> (b) <u>Thurston County of region 5.</u>
(5) <u>bugloss, common</u> <u>Anchusa officinalis</u>	(a) <u>regions 1,2,3,5,6,8,9,10</u> (b) <u>Ferry and Pend Oreille counties of region 4</u> (c) <u>Lincoln, Adams, and Whitman counties of region 7.</u>	(13) <u>hawkweed, orange</u> <u>Hieracium aurantiacum</u>	(a) <u>regions 3,6,7,9,10</u> (b) <u>Ferry County of region 4.</u>
(6) <u>camelthorn</u> <u>Alhagi pseudalhagi</u>	(a) <u>regions 1,2,3,4,5,7,8</u> (b) <u>Intercounty Weed District No. 51, Intercounty Weed District No. 52, Grant County Weed District No. 1, Grant County Weed District No. 2, and Grant County Weed District No. 3</u> (c) <u>Grant County north of Highway 90</u> (d) <u>T16N, R29E; T16N, R30E; T15N, R28E except Sec. 5; T15N, R29E; T15N, R30E</u> (e) <u>Franklin County of region 9</u> (f) <u>Columbia, Garfield, and Asotin counties of region 10</u> (g) <u>an area beginning at the Washington — Oregon border at the southwest portion of section 15, R32E, T6N, then north to the northwest corner of section 3, R36E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.</u>	(14) <u>hawkweed, yellow</u> <u>Hieracium pratense</u>	(a) <u>regions 1,2,3,5,6,7,8,9,10</u> (b) <u>Ferry County of region 4.</u>
(7) <u>catsear, spotted</u> <u>Hypochaeris radicata</u>	(a) <u>regions 3,4,6,7,9,10.</u>	(15) <u>indigobush</u> <u>Amorpha fruticosa</u>	(a) <u>regions 1,2,3,4,5,6,7</u> (b) <u>Franklin County of regions 9 and 10.</u>
(8) <u>daisy, oxeye</u> <u>Chrysanthemum leucanthemum</u>	(a) <u>regions 6,7,9,10.</u>	(16) <u>knapweed, black</u> <u>Centaurea nigra</u>	(a) <u>regions 1,2,3,4,5,7,9,10</u> (b) <u>region 6 except Kittitas County</u> (c) <u>region 8 except Clark County.</u>
		(17) <u>knapweed, brown</u> <u>Centaurea jacea</u>	(a) <u>regions 1,2,3,4,5,7,9,10</u> (b) <u>region 6 except Kittitas County</u> (c) <u>region 8 except Clark County.</u>
		(18) <u>knapweed, diffuse</u> <u>Centaurea diffusa</u>	(a) <u>regions 1,2,5,8</u> (b) <u>Grant County lying in the north half of Township 15 North, Ranges 24 through 27 East; Township 16 North, Ranges 25, 26 and 27 East; Townships 17 and 18 North, Ranges 25 through 30 East; Townships 19 and 20 North, Range 30 East; Township 22 North, Ranges 23, 24, and 25 East; Townships 21, 22, and 23 North, Ranges 28, 29, and 30 East; Townships 24 and 25 North, Ranges 29 and 30 East; Township 26 North, Range 30 East; and the east half of Township 27 North, Range 30 East, all W.M.</u> (c) <u>Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22,23,24,25,26,27,28,31,32,33 and 34; T15N, R38E, Sections 2,10,11,14,15,19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6; T18N, R37E, Sections 29,30,31 and 32</u> (d) <u>Franklin County of regions 9 and 10.</u>
		(19) <u>knapweed, meadow</u> <u>Centaurea jacea x nigra</u>	(a) <u>regions 1,2,3,4,5,7,9,10</u> (b) <u>region 6 except Kittitas County</u> (c) <u>region 8 except Clark County.</u>
		(20) <u>knapweed, Russian</u> <u>Centaurea repens</u>	(a) <u>regions 1,2,5,7,8</u> (b) <u>region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County</u> (c) <u>Adams County except those areas in the Main Lind Coulee Drainage area of T17N, R32E, Sections 19,20,25,27,28,29,32,33,34,35 and 36; T17N, R33E, Sections 16,17,19,20 and 30, and those areas within the Lower Crab Creek drainage area of T15N, R28E, sections 5 and 6; and the western half of T16N, R28E</u> (d) <u>Intercounty Weed District No. 52</u>

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(21) <u>knapweed, spotted</u> <u>Centaurea maculosa</u>	(e) <u>region 10 except Franklin County.</u> (a) <u>regions 1,2,3,5,6,8,9</u> (b) <u>Adams and Whitman counties of region 7</u> (c) <u>region 10 except Garfield County.</u>	(29) <u>ragwort, tansy</u> <u>Senecio jacobaea</u>	(a) <u>regions 3,4,6,7,9,10.</u>
(22) <u>lepyrodiclis</u> <u>Lepyrodiclis holsteoides</u>	(a) <u>regions 1,2,3,4,5,6,8,9,10</u> (b) <u>region 7 except an area within Whitman County east of the Pullman — Wawaawai Road from Wawaawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.</u>	(30) <u>sage, Mediterranean</u> <u>Salvia aethiopsis</u>	(a) <u>regions 1,2,3,4,5,6,7,8,9</u> (b) <u>Franklin County of region 10.</u>
(23) <u>lythrum, purple</u> <u>Lythrum salicaria</u>	(a) <u>regions 1,3,4,7,8</u> (b) <u>region 5 except King County</u> (c) <u>region 6 except that portion of Grant County lying southerly of State Highway 28 and except Sections 21,28,29 and 32, Township 21 North, Range 26 East, W.M.</u> (d) <u>region 9 except Benton County</u> (e) <u>region 10 except Walla Walla County</u> (f) <u>Intercounty Weed Districts No. 51 and No. 52.</u>	(31) <u>sandbur, longspine</u> <u>Cenchrus longispinus</u>	(a) <u>regions 1,2,3,4,5,7,8</u> (b) <u>Adams County of region 6 except for that area lying within Intercounty Weed District No. 52</u> (c) <u>Intercounty Weed District No. 51.</u>
(24) <u>medusahead</u> <u>Taeniatherum caput-medusae</u>	(a) <u>regions 1,2,5,8.</u>	(32) <u>skeletonweed, rush</u> <u>Chondrilla juncea</u>	(a) <u>regions 1,2,3,5,8,9</u> (b) <u>Franklin County except T13N, R36E; and T14N, R36E</u> (c) <u>Adams County except those areas lying east of a boundary line running north from Franklin County along the western boundary of Range 36 East to Wellsandt Road then east on Wellsandt Road to Interstate 90 then following I-90 to the Lincoln County line</u> (d) <u>region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road E. Northwest</u> (e) <u>Pend Oreille County north of the northernmost boundary of Township 33 North.</u>
(25) <u>nutsedge, yellow</u> <u>Cyperus esculentus</u>	(a) <u>regions 1,2,3,4,5,7,8</u> (b) <u>Yakima County Weed District No. 1</u> (c) <u>region 6 except:</u> (i) <u>those areas lying between State Highway 26 and State Highway 28 in Grant County</u> (ii) <u>those areas lying in Yakima County but not in Yakima Weed District No. 1</u> (d) <u>region 9 except:</u> (i) <u>those areas lying in Yakima County but not in Yakima Weed District No. 1</u> (ii) <u>an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E</u> (e) <u>region 10 except Walla Walla County.</u>	(33) <u>sowthistle, perennial</u> <u>Sonchus arvensis arvensis</u>	(a) <u>regions 1,2,3,4,5,7,8,9,10.</u>
(26) <u>oxtongue, hawkweed</u> <u>Picris hieracioides</u>	(a) <u>regions 1,2,3,4,5,6,7,9,10</u> (b) <u>region 8 except Skamania County.</u>	(34) <u>spurge, leafy</u> <u>Euphorbia esula</u>	(a) <u>regions 1,2,3,4,5,6,8,9</u> (b) <u>region 7 except as follows:</u> (i) <u>T27N, R39E, Sections 24, 25,28,29,30,32,33,34 T26N, R39E, Sections 3,4,5,9,10,15,16,21,22</u> (ii) <u>T22N, R37E, Sections 1,12,13,14,23,24,25,26,35,36; T22N, R38E, Sections 3,4,5,6,7,8,17,18,19; T23N, R38E, Sections 7,8,17,18,19,20,21,27,28,29,30,31,32,33,34; T23N, R37E, Sections 23,24,25,26,35,36</u> (iii) <u>T25N, R41E, all sections; all T27N, R41E south of the Spokane, River all T26N, R42E west of the Spokane River</u> (c) <u>region 10 except as follows:</u> (i) <u>T9N, R39E, Section 8</u> (ii) <u>T13N, R40E, Sections 10, 11,12,13,14,15,16; T13N, R41E, Sections 5,6,7,8,9,10,11,12,13,14; T13N, R42E, Sections 2,3,4,5,7,8,9,10,11,26,27,34,35.</u>
(27) <u>peaweed, Austrian</u> <u>Sphaerophysa salsula</u>	(a) <u>regions 1,2,3,4,5,7,8</u> (b) <u>Yakima County Weed District No. 1</u> (c) <u>Columbia, Garfield, Asotin, and Franklin counties an area beginning at the Washington — Oregon border at the southwest portion of section 15, R32E, T6N, then north to the northwest corner of section 3, R36E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to the southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.</u> (d) <u>Washington — Oregon border at the southwest portion of section 15, R32E, T6N, then north to the northwest corner of section 3, R36E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to the southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.</u>	(35) <u>starthistle, yellow</u> <u>Centaurea solstitialis</u>	(a) <u>regions 1,2,3,4,5,6,8,9</u> (b) <u>region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border</u> (c) <u>Franklin County.</u>
(28) <u>pepperweed, perennial</u> <u>Lepidium latifolium</u>	(a) <u>regions 1,2,3,4,5,7,8,10</u> (b) <u>Grant County lying northerly of Township 21, North, W.M.</u> (c) <u>Intercounty Weed Districts No. 51 and 52.</u>	(36) <u>thistle, musk</u> <u>Carduus nutans</u>	(a) <u>regions 1,2,5,6,7,8,9,10</u> (b) <u>Spokane County.</u>
		(37) <u>thistle, plumeless</u> <u>Carduus acanthoides</u>	(a) <u>regions 1,2,3,5,6,7,8,9,10</u> (b) <u>region 4 except Stevens County.</u>
		(38) <u>thistle, Scotch</u> <u>Onopordum acanthium</u>	(a) <u>regions 1,2,3,4,5,6,8,9</u> (b) <u>region 7 except for those areas within Whitman County lying south of State Highway</u>

Name	Will be a "Class B designate" in all lands lying within:
	<u>26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border</u>
	(c) <u>Franklin County.</u>
(39) <u>toadflax, Dalmatian</u>	(a) <u>regions 1,2,5,8,10</u>
<u>Linaria genistifolia</u>	(b) <u>Kittitas, Chelan, Douglas,</u>
<u>spp. dalmatica</u>	<u>Adams counties of region 6</u>
	(c) <u>Intercounty Weed District No. 51</u>
	(d) <u>Lincoln and Adams counties of region 7</u>
	(e) <u>region 9 except as follows:</u>
	(i) <u>those areas lying within Yakima County</u>
	(ii) <u>those areas lying west of the Klickitat River and within Klickitat County.</u>
(40) <u>ventenata</u>	(a) <u>regions 1,2,3,5,6,8</u>
<u>Ventenata dubia</u>	(b) <u>Franklin County.</u>
(41) <u>watermilfoil, Eurasian</u>	(a) <u>regions 1,8,9,10</u>
<u>Myriophyllum spicatum</u>	(b) <u>region 7 except Spokane County.</u>

WSR 88-13-008
ADOPTED RULES
LOTTERY COMMISSION
 [Order 110—Filed June 6, 1988]

Be it resolved by the Washington State Lottery Commission, acting at Seattle, Washington, that it does adopt the annexed rules relating to WAC 315-11-330, 315-11-331 and 315-11-332.

This action is taken pursuant to Notice No. WSR 88-09-069 filed with the code reviser on April 20, 1988. 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 67.70.040 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 June 3, 1988.

By Scott Milne
 Deputy Director

NEW SECTION

WAC 315-11-330 DEFINITIONS FOR INSTANT GAME NUMBER 33 ("INSTANT REPLAY"). (1) Play symbols: The following are the "play symbols":

\$1.00
\$2.00
\$5.00
\$10.00
\$20.00
\$50.00
\$500

One of these play symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 33, the captions which correspond with and verify the play symbols are:

PLAY NUMBER	CAPTION
\$1.00	ONE DOL
\$2.00	TWO DOL
\$5.00	FIV DOL
\$10.00	TEN DOL
\$20.00	TTY DOL
\$50.00	\$FIFTY\$
\$500	FIV HUN

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The ten-digit number of the form 3000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 33 constitute the "pack number" which starts at 3000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners below \$25. For Instant Game Number 33, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of nine locations among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-331 CRITERIA FOR INSTANT GAME NUMBER 33. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three	\$1.00	play symbols		- Win	\$1.00
Two	\$1.00	play symbols and one	\$1.00 Replay	- Win	\$1.00
Three	\$2.00	play symbols		- Win	\$2.00
Two	\$2.00	play symbols and one	\$2.00 Replay	- Win	\$2.00
Three	\$5.00	play symbols		- Win	\$5.00
Two	\$5.00	play symbols and one	\$5.00 Replay	- Win	\$5.00
Three	\$10.00	play symbols		- Win	\$10.00
Two	\$10.00	play symbols and one	\$10.00 Replay	- Win	\$10.00
Three	\$20.00	play symbols		- Win	\$20.00
Two	\$20.00	play symbols and one	\$20.00 Replay	- Win	\$20.00
Three	\$50.00	play symbols		- Win	\$50.00
Two	\$50.00	play symbols and one	\$50.00 Replay	- Win	\$50.00
Three	\$500.00	play symbols		- Win	\$500.00
Two	\$500.00	play symbols and one	\$500.00 Replay	- Win	\$500.00

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 33 set forth in WAC 315-11-332, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 33; and/or

(b) Vary the number of tickets sold in Instant Game Number 33 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-332 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 33. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 33 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Each of the six play symbols must have a caption underneath, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Archer font in positive
Captions	5 x 9 font in positive
Pack-Ticket Number	9 x 12 font in positive
Validation Number	9 x 12 font in positive
Retail Verification Code	Archer font in positive

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-330(1) and each of the captions must be exactly one of those described in WAC 315-11-330(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

WSR 88-13-009
ADOPTED RULES
STATE BOARD OF EDUCATION
 [Order 14-88—Filed June 6, 1988]

Be it resolved by the State Board of Education, acting at the Walla Walla School District Administration Building Boardroom, Walla Walla, Washington, that it does adopt the annexed rules relating to General requirements—Teachers, administrators, educational staff associates, WAC 180-75-085.

This action is taken pursuant to Notice No. WSR 88-08-073 filed with the code reviser on April 6, 1988. 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 28A.70-.005 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 May 20, 1988.
 By Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 14-87, filed 12/21/87)

WAC 180-75-085 GENERAL REQUIREMENTS—TEACHERS, ADMINISTRATORS, EDUCATIONAL STAFF ASSOCIATES. The following requirements are to be met by candidates for certification as teachers, administrators, or educational staff associates:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state who are not holders of a valid Washington state teacher's, administrator's, educational staff associate's, or vocational certificate must give evidence of good moral character and personal fitness as

specified in WAC 180-75-082 and must make arrangements with the Washington state patrol (~~to provide the superintendent of public instruction a copy of any arrest or other record in possession of such state patrol~~) for a background check as required by RCW 28A.70.005: PROVIDED, That applicants for vocational teaching certificates who do not make such an arrangement with the state patrol shall have placed on such certificates by the superintendent of public instruction a provision which restricts the certificate holder to the teaching of vocational technical institute students who are sixteen years of age or older.

(3) Academic. A candidate for certification shall have successfully completed an approved professional preparation program within the state of Washington and hold appropriate degrees, licenses, and additional course work as prescribed in chapter 180-79 WAC or have qualified under WAC 180-79-245.

(4) Program completion. A candidate for an initial or continuing certificate shall provide verification that he or she has completed an approved professional preparation program.

Subsections (3) and (4) of this section shall not apply to vocational certificates. Vocational certificates are issued under academic and experience requirements set forth in chapter 180-77 WAC.

WSR 88-13-010

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Funeral Directors and Embalmers)

[Order PM 737—Filed June 6, 1988]

Be it resolved by the Washington State Board of Funeral Directors and Embalmers, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 308-48-140 Licenses—Applicants from other states.
- Amd WAC 308-48-790 Crematory endorsements—Registration—Expiration.
- Amd WAC 308-49-140 Registration.
- Amd WAC 308-49-170 Annual statement requirements.

This action is taken pursuant to Notice No. WSR 88-08-037 filed with the code reviser on April 1, 1988. 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 18.35.175(4) which directs that the Washington State Board of Funeral Directors and Embalmers has authority to implement the provisions of chapter 18.39 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 May 26, 1988.

By Kenneth R. Andrews
Chairman

AMENDATORY SECTION (Amending Order PM 604, filed 7/11/86)

WAC 308-48-140 LICENSES—APPLICANTS FROM OTHER STATES. To qualify pursuant to RCW 18.39.130 for licensure as an applicant from another state, an applicant must furnish proof satisfactory to the department that his professional education and experience are comparable to the minimum requirements set out in RCW 18.39.035 and 18.39.045, including proof that the applicant:

(1) Is currently licensed in good standing in another state or territory of the United States;

(2) If an applicant for a funeral director license has successfully completed a funeral director licensure examination in another state or the national board examination, and the current preparation and transportation, public health and state law portions of the Washington examination;

(3) If an applicant for an embalmer's license, has successfully completed an embalmer license examination in another state or the national board examination, and the current preparation and transportation, public health and state law portions of the Washington examination;

(4) Has completed 60 semester or 90 quarter hours of study at an accredited college or institution of higher learning or the equivalent;

(5) For a funeral director's license, has completed at least a one year apprenticeship under a licensed funeral director in the state where originally licensed;

(6) For an embalmer's license, has completed a two year apprenticeship under the supervision of a licensed embalmer and graduated from a school of mortuary science recognized by the board.

Applicants may substitute a year of full time employment as a licensed funeral director or embalmer for each required year of apprenticeship.

AMENDATORY SECTION (Amending Order PL 581, filed 2/19/86)

WAC 308-48-790 (~~REGISTRATION FEE FOR CREMATORY OPERATIONS~~) CREMATORY ENDORSEMENTS—REGISTRATION—EXPIRATION. (~~The registration fee and the annual renewal fee for an endorsement for crematory operations is twenty-five dollars.~~) Crematory endorsements shall expire annually on June 30.

AMENDATORY SECTION (Amending Order PM 677, filed 9/1/87)

WAC 308-49-140 REGISTRATION. (1) Before entering into any prearrangement funeral service contracts in this state, a funeral establishment shall first obtain a certificate of registration from the board. To apply for registration, a funeral establishment must file an application on forms approved by the board of funeral directors and embalmers, which includes:

(a) The name, address, and telephone number of the funeral establishment;

(b) The name and license number of the person at the funeral establishment responsible for supervising the sale

of funeral merchandise or service on a prearrangement basis;

(c) A statement of the establishment's current financial condition and an explanation of how the establishment plans to offer, market and service prearrangement contracts including:

(i) The type of business organization which operates the funeral establishment, e.g., sole proprietorship, partnership, or corporation and a list of all officers, directors, partners and managers by name and title, and any person owning more than ten percent of the business;

(ii) A balance sheet and a profit and loss statement for the most recently concluded fiscal year(~~(; certified by a certified public accountant, [a licensed public accountant,] or a copy of the establishment's most recent federal income tax return verified by a certified public accountant))~~ and/or other such fiscal documents as the board may require;

(d) The prearrangement funeral contract forms the establishment proposes to use need not be in final printed form when submitted; however, a copy of the final printed form shall be filed with the board before the form is used;

(e) Identification of the qualified public depository the establishment will use with an explanation of the depository's manner of operating and managing the prearrangement funeral service contract trust fund, together with copies of any contract or trust agreement to be entered into in connection with such trust fund, and, if a single trust fund is to be established and maintained with respect to several prearrangement funeral service contracts, a complete explanation of the manner in which records will be maintained to allocate the interest, dividends, increases or accretions and the share of such fund to each contract.

(2) Upon review of the application, the board may require additional information or explanation prior to registration or refusing to register the funeral establishment.

(3) The application shall be accompanied by a check payable to the state treasurer in the amount required by the director for issuance of the certificate of registration.

AMENDATORY SECTION (Amending Order PM 677, filed 9/1/87)

WAC 308-49-170 ANNUAL STATEMENT REQUIREMENTS. (1) Each registered funeral establishment shall file with the board annually, ninety days after the end of its fiscal year, a true and accurate statement of its financial condition, transactions and affairs for the preceding fiscal year.

(2) The statement shall include a balance sheet and a profit and loss statement for the preceding fiscal year(~~(; certified by a certified public accountant, or a copy of the establishment's most recent federal income tax return[s] verified by a certified public accountant))~~ and/or other such fiscal documents as the board may require.

(3) The funeral establishment shall list any changes in its officers, directors, managers or partners or any change in ownership greater than ten percent which have occurred in the preceding fiscal year.

(4) With respect to each prearrangement funeral service contract trust fund, the following information shall be provided:

(a) The name of (~~(the))~~) the depository and the account number;

(b) The number of outstanding contracts at the beginning of the fiscal year;

(c) The total amount paid in by the holders of such contracts pertinent to the trust fund;

(d) The total amount deposited in the trust account;

(e) The number of new contracts issued during the fiscal year;

(f) The amount paid in on such new contracts and the amount deposited in the trust fund for such contracts;

(g) The number of individuals withdrawing from the contracts, the principal amount paid to them and the amount of interest, dividends, or accretions, separately stated, paid to them.

(h) The number of cases where prearrangement funeral merchandise and services covered by the contract have been furnished and delivered and the amount transferred out of the trust fund to the funeral establishment for such services;

(i) The number of outstanding contracts as (~~(to))~~) of the end of the fiscal year and the amount being held in trust for such contracts.

(5) The annual report form shall include verification from the depository as to the amount of money held in funeral prearrangement trust as of the reporting date.

(6) The annual statement shall be accompanied by a fee as determined by the director, payable to the state treasurer.

WSR 88-13-011
PROPOSED RULES
HORSE RACING COMMISSION
[Filed June 6, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning:

- New WAC 260-34-110 Relating to consumption of alcohol.
- New WAC 260-34-120 Relating to alcohol violations defined.
- New WAC 260-34-130 Relating to consumption reasonable suspicion for testing.
- New WAC 260-34-140 Relating to alcohol levels determined.
- New WAC 260-34-150 Relating to alcohol testing.
- New WAC 260-34-160 Relating to refusal to be tested.
- New WAC 260-34-170 Relating to alcohol violation sanctions.
- Amd WAC 260-70-010 Relating to definitions applicable to chapter.
- Amd WAC 260-70-090 Relating to permitted level of NSAIDS;

that the agency will at 1:00 p.m., Wednesday, July 27, 1988, in the Sea-Tac Red Lion, 18740 Pacific Highway South, Seattle, 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 67.16.020 and 67.16.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 18, 1988.

Dated: June 1, 1988

By: John Crowley
Executive Secretary

STATEMENT OF PURPOSE

In the matter of adopting and amending WAC 260-34-110, 260-34-120, 260-34-130, 260-34-140, 260-34-150, 260-34-160, 260-34-170, 260-70-010 and 260-70-090 relating to the rules of horse racing.

WAC 260-34-110 et seq. are proposed for adoption as indicated in the notice of intention to adopt rules filed this date with the code reviser.

The adoption of these rules is proposed pursuant to RCW 67.16.020 and 67.16.040 under the general rule-making authority of the Washington Horse Racing Commission.

The enactment of the new rules are for the reasons set forth below.

The Horse Racing Commission has determined that public safety is an important issue at the track. It seeks to ensure that licensees who participate in racing do not create a threat of harm or possible threat of harm to other participants in the race or those at the track.

The perception of the proper regulation of horse racing is important for the Horse Racing Commission in the fulfillment of its statutory obligations. In furtherance of the perception that racing is conducted on a high plane, the Horse Racing Commission is promulgating rules which help to ensure that persons with special difficulties in regard to alcohol or anyone else in general, are not creating a problem with that perception by their conduct.

Alcohol is a substance that is subject to wide regulation in the state in general. The Horse Racing Commission wants to make it absolutely clear that licensees will not be allowed to use alcohol while carrying out their licensed functions at the track or at points in time with a direct relationship to their conduct at the track.

The intense scrutiny of licensees in horse racing is essential because, not only is it a highly regulated industry by history but, in light of the large amounts of money that are bet, the public confidence that must exist for this betting to take place and the possibility of any undue influence or improper influence in betting or gambling existing as it does, the need for this set of rules, with the policies outlined there, are essential for regulatory oversight.

Other states than the Horse Racing Commission have promulgated and implemented rules with these same purposes. New Jersey, Ohio and other states have been using them and they have the same regulatory interests that Washington does.

WAC 260-70-010 and 260-70-090 are rules dealing with permitted medication. The proposed changes are going to simplify the administration, enforcement, review and oversight of permitted medication issues. It is a matter that the commission wants to regulate closely and intends [to] ensure that the rules, by these amendments, are as clear and as direct as possible.

John Crowley, Executive Secretary, Suites B and C, 210 East Union Avenue, Olympia, Washington 98504, phone (206) 753-3741, and members of the Horse Racing Commission staff were responsible for the drafting of the new enactments and amendments of these rules and are to be responsible for their implementation and enforcement.

The proponent of the amendment and enactment of these rules is the Washington Horse Racing Commission, Lyle Smith, Chairperson.

The Washington Horse Racing Commission recommends the adoption of these rules. They have been drafted in consultation with various parties and in some cases, with consultation from members of the horse racing industry.

The enactment of these rules is not necessary as the result of action by the legislature or any court action.

This certifies that copies of this statement are on file with the Horse Racing Commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Small Business Economic Impact Statement: The enactments and amendments listed above are not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

NEW SECTION

WAC 260-34-110 CONSUMPTION OF ALCOHOL. Consumption of alcohol by any licensee or employee listed in WAC 260-34-040 (1) through (22) or as described in (23) to an extent that the licensee or employee is affected by alcohol while in performance of their duties is prohibited.

NEW SECTION

WAC 260-34-120 ALCOHOL VIOLATIONS DEFINED. The testing for any licensee or employee for use of alcohol shall be done upon an order of the board of stewards based upon reasonable suspicion to believe that the licensee or employee has consumed alcohol as described in WAC 260-34-020 or 260-34-110.

NEW SECTION

WAC 260-34-130 CONSUMPTION REASONABLE SUSPICION FOR TESTING. A documented report of observed consumption of alcohol by a licensee or employee not in keeping with WAC 260-34-110 by any horse racing commission employee or by any track administration security officer may be deemed reasonable suspicion for alcohol testing of that licensee or employee. Reasonable suspicion for alcohol testing may also be established by documentation by commission employees or by any track administrative security officer for physical or mental impairment, loss of balance, slurred speech, presence of alcohol on the breath, glazed eyes, or any other physical or mental action generally associated with alcohol intoxication.

NEW SECTION

WAC 260-34-140 ALCOHOL LEVELS DETERMINED. For the purpose of this chapter, licensees and employees shall be considered to have consumed alcohol in violation of WAC 260-34-030 or 260-34-110 when a test reveals the testee has .08 micrograms or more of alcohol per 210 liters of breath as shown by analysis of his breath, blood or other body substance.

NEW SECTION

WAC 260-34-150 ALCOHOL TESTING. The testing of any licensee or employee to determine blood level of alcohol shall be by the method and procedure approved by the Washington state patrol or by a blood alcohol test if requested by the licensee or employee, such blood alcohol test must be supervised in a manner prescribed by the horse racing commission. If a blood test is requested, the expense of same shall be borne by the requesting licensee or employee.

NEW SECTION

WAC 260-34-160 REFUSAL TO BE TESTED. Any licensee or employee who refuses to be tested for alcohol consumption after receiving a written order from the stewards shall be suspended immediately and must leave the association grounds. The licensee or employee may be subject to further sanctions at a stewards hearing. The stewards may lift the suspension at their discretion.

NEW SECTION

WAC 260-34-170 ALCOHOL VIOLATION SANCTIONS. (1) For a first alcohol offense within a calendar year, the penalty is two days suspension.

(2) For a second alcohol offense within a calendar year, the penalty is two days suspension and a mandatory evaluation by a certified alcohol treatment program approved by the executive secretary of the horse racing commission.

(3) For a third offense within a calendar year, the penalty is fourteen days suspension and enrollment and completion of a certified alcohol treatment program approved by the executive secretary of the horse racing commission.

AMENDATORY SECTION (Amending Resolution No. 87-03, filed 7/8/87)

WAC 260-70-010 DEFINITIONS APPLICABLE TO CHAPTER 260-70 WAC. As used in this chapter, unless the context clearly requires a different meaning, the following terms shall have the following meanings:

(1) "Permitted medication" or "medication" means and includes any substance used to treat or prevent disease, relieve pain, or improve health with the exception of prohibited drugs.

(2) "Prohibited drugs" means (a) any medication or metabolic derivatives thereof which is an analgesic, including narcotics or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, or bronchial dilators; or (b) any interfering substance.

(3) "Interfering substance" or "interfere" means and refers to any medication which might mask or screen the presence of prohibited drugs or prevent or delay testing procedures. Such terms include permitted medication when used in quantities which might mask or screen the presence of prohibited drugs or prevent or delay testing procedures.

(4) "Approved nonsteroidal anti-inflammatory drug (NSAID)" includes and is limited to phenylbutazone or oxyphenylbutazone; (~~(flunixin);~~) naproxen and meclofenamic acid used in the manner described in WAC 260-70-090.

(5) "Bleeder" means a horse which hemorrhages from a nostril or into its trachea during a race or during exercise or within one hour of the race or exercise.

(6) "Bleeder list" means a tabulation of all bleeders to be maintained by the commission veterinarian.

AMENDATORY SECTION (Amending Resolution No. 87-03, filed 7/8/87)

WAC 260-70-090 PERMITTED LEVEL OF APPROVED NSAIDS. Trainers using permitted medication in the care of their horses are subject to all rules governing such medications. Those using approved NSAIDS are also subject to these additional rules:

(1) PHENYLBUTAZONE or OXYPHENYLBUTAZONE shall be administered in such dosage amount that the test sample shall contain not more than 5 micrograms of phenylbutazone or 5 micrograms of oxyphenylbutazone per milliliter of blood plasma or more than 165 micrograms of the drug substance, its metabolites and analogs per milliliter of urine.

(2) NAPROXEN shall be administered in such dosage amount that the test sample shall contain not more than 5 micrograms of the drug substance, its metabolites or analogs per milliliter of blood plasma or more

than 165 micrograms of the drug substance, its metabolites or analogs per milliliter of urine.

(3) (~~FLUNIXIN shall be administered in such dosage amount that the test sample shall not contain more than 1 microgram of the drug substance, its metabolites or analogs per milliliter of blood plasma.~~

(~~4~~) MECLOFENAMIC ACID shall be administered in such dosage amount that the test sample shall contain not more than 1 microgram of the drug substance, its metabolites or analogs per milliliter of blood plasma.

(~~(5)~~) (4) No horse on a program of permitted medication shall be permitted to race without such medication.

WSR 88-13-012**ADOPTED RULES****DEPARTMENT OF WILDLIFE****(Wildlife Commission)**

[Order 310—Filed June 6, 1988]

Be it resolved by the State Wildlife Commission, acting at the Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, that it does adopt the annexed rules relating to bow and arrow requirements, amending WAC 232-12-054.

This action is taken pursuant to Notice No. WSR 88-08-084 filed with the code reviser on April 6, 1988. 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 77.12.040 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 May 15, 1988.

By Dr. James M. Walton
Chairman, Wildlife Commission

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-054 BOW AND ARROW REQUIREMENTS. (1) It is unlawful for any person to hunt big game animals with a bow that possesses less than 40 pounds of pull measured at twenty-eight inches or less draw length or has a greater than 65% reduction (let off) in holding weight at full draw.

(2) It is unlawful to hunt big game animals with any arrow(~~(s)~~), including broadhead, ((other than)) weighing less than 400 grains (400 gr.) or ((those)) having sharp broadhead blade or blades ((at least)) less than seven-eighths inches wide. It is unlawful to hunt with a broadhead blade unless the ((The)) broadhead is ((must be)) unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width forming a smooth line toward the feather end of the shaft and such line ((shaft)) does not angle toward the point.

(3) It is unlawful for any person to carry or have in his possession any firearm while in the field archery

hunting, during the bow and arrow season specified for that area.

(4) It is unlawful to shoot at wildlife with an arrow from a vehicle or from, across or along the maintained portion of a public highway.

(5) It is unlawful to use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw or in a firing position.

(6) It is unlawful to have any electrical equipment or devices(s) attached to the bow or arrow while hunting.

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 88-13-013
ADOPTED RULES
EDMONDS COMMUNITY COLLEGE
[Resolution No. 88-5-3—Filed June 6, 1988]

Be it resolved by the board of trustees of Edmonds Community College, acting at 20000 68th Avenue West, Lynnwood, WA 98036, that it does repeal the annexed rules relating to policy for dismissal of tenured and probationary faculty members, chapter 132Y-140 WAC.

This action is taken pursuant to Notice No. WSR 88-06-024 filed with the code reviser on February 25, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 28B.50-.852 and chapter 28B.52 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 19, 1988.

By Barbara Patterson
Director of Human Resources

WSR 88-13-014
RULES OF COURT
STATE SUPREME COURT
[June 2, 1988]

IN THE MATTER OF THE ADOPTION OF RPC 7.2, 7.3 and 7.5(d); ER 412, 501, 609(a), 807, 902(d); CR 5(d), 5(i), 30(f), 31, 43(f), 56 and 78(d)

The Board of Governors of the Washington State Bar Association having recommended the adoption of RPC 7.2, 7.3 and 7.5(d); ER 412, 501, 609(a), 807, 902(d); CR 5(d), 5(i), 30(f), 31, 43(f), 56 and 78(d), and the

Court having considered the proposed Rules, Amendments and comments submitted thereto, and having determined that the proposed Rules and Amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the Rules and Amendments as attached hereto are adopted; and the comment to ER 501, effective August 27, 1980, is hereby rescinded.

(b) That the Rules and Amendments will be published in the special Rules edition of the Washington Reports in July, 1988, and will become effective September 1, 1988.

DATED at Olympia, Washington this 2nd day of June, 1988.

Table with 2 columns: Name, Signature. Includes Vernon R. Pearson, James A. Andersen, Robert F. Utter, Robert F. Brachtenbach, Keith M. Callow, James M. Dolliver, Wm. C. Goodloe, Fred H. Dore, B. Durham.

PROPOSED AMENDMENTS TO
RULES OF PROFESSIONAL CONDUCT
RPC 7.2
ADVERTISING

(a) Subject to the requirements of rules 7.1 and 7.3, a lawyer may advertise services through public media, such as a telephone directory, legal directory, newspaper or other periodical, outdoor, radio or television, or through written communication not involving solicitation as defined in rule 7.3.

(b) A copy or recording of an advertisement or written communication shall be kept by the lawyer for 2 years after its last dissemination along with a record of when and where it was used. Upon written request by the State Bar, either instigated by the State Bar or as the result of any inquiry from the public, the lawyer shall make any such copy or recording available to the State Bar, and shall provide to the State Bar evidence of any relevant professional qualifications and of the facts upon which any factual or objective claims contained in the advertisement or communication are based. The State Bar Association may provide the lawyer's response to any person making inquiry.

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising or written communication permitted by this rule and may pay the usual charges of a not-for-profit lawyer referral service or other legal service organization.

(d) Any communication made pursuant to this rule shall include the name of at least one lawyer responsible for its content.

RPC 7.3
DIRECT CONTACT WITH PROSPECTIVE CLIENTS

(a) A lawyer shall not directly or through a third person solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship by mail, in person or otherwise, by telephone contract, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient but does not include letters addressed or advertising circulars distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful.

(b) A lawyer shall not send a written communication to a prospective client for the purpose of obtaining professional employment if the person has made known to the lawyer a desire not to receive communications from the lawyer.

RPC 7.5(d)

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact. Lawyers practicing out of the same office who are not partners or shareholders of a professional corporation may not join their names together. Lawyers who are not (1) partners or shareholders of a professional corporation, or (2) employees of a partnership or professional corporation, or (3) in the relationship of being "Of Counsel" to a partnership or professional corporation, shall have separate letterheads, cards and pleading paper, and shall sign their names individually at the end of all pleadings and correspondence and not in conjunction with the names of other lawyers.

PROPOSED AMENDMENTS TO RULES OF EVIDENCE

ER 412

[NEW RULE]

SEXUAL OFFENSES—VICTIM'S PAST BEHAVIOR

[Reserved. See RCW 9A.44.020.]

ER 501

GENERAL RULE

{RESERVED}

By way of illustration, and not by way of limitation, the following are examples of privileges recognized in this state:

(a) Attorney-Client. [Reserved. See RCW 5.60.060(2).]

(b) Clergyman or Priest. [Reserved. See RCW 5.60.060(3), 26.44.060, 70.124.060.]

(c) Dispute Resolution Center. [Reserved. See RCW 7.75.050.]

(d) Grand Juror. [Reserved. See RCW 10.27.090.]

(e) Higher Education Procedures. [Reserved. See RCW 28B.19.120(4).]

(f) Husband-Wife. [Reserved. See RCW 5.60.060(1), 26.20.071, 26.21.170.]

(g) Interpreter in Legal Proceeding. [Reserved. See RCW 2.42.160.]

(h) Journalist. [Reserved. See Senear v. Daily Journal-American, 97 Wn.2d 148, 641 P.2d 1180 (1982); State v. Rinaldo, 102 Wn.2d 749, 689 P.2d 392 (1984).]

(i) Optometrist-Patient. [Reserved. See RCW 18.53.200, 26.44.060.]

(j) Physician-Patient. [Reserved. See RCW 5.60.060(4), 26.26.120, 26.44.060, 51.04.050, 69.41.020, 69.50.403, 69.54.070, 70.124.060, 71.05.250.]

(k) Psychologist-Client. [Reserved. See RCW 18.83.110, 26.44.060, 70.124.060.]

(l) Public Assistance Recipient. [Reserved. See RCW 74.04.060.]

(m) Public Officer. [Reserved. See RCW 5.60.060(5).]

(n) Registered Nurse. [Reserved. See RCW 5.62.010, 5.62.020, 5.62.030.]

ER 609(a)

(a) General Rule. For the purpose of attacking the credibility of a witness in a criminal or civil case, evidence that he the witness has been convicted of a crime shall be admitted if elicited from him the witness or established by public record during cross examination of the witness but only if the crime (1) was punishable by death or imprisonment in excess of 1 year under the law under which he the witness was convicted, and the court determines that the probative value of admitting this evidence on the issue of credibility outweighs its prejudicial effect to the defendant the prejudice to the party against whom the evidence is offered, or (2) involved dishonesty or false statement, regardless of the punishment.

ER 807

[NEW RULE]

CHILD VICTIMS OR WITNESSES

[Reserved. See RCW 9A.44.120.]

ER 902(d)

(d) Certified Copies of Public Records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with section (a), (b), or (c) of this rule or complying with any applicable law, treaty or convention of the United States, or of this state the applicable law of a state or territory of the United States.

PROPOSED AMENDMENTS TO SUPERIOR COURT CIVIL RULES

CR 5(d)

(d) Filing.

(1) Time. Complaints shall be filed as provided in rule 3(a). Except as provided for discovery materials in section (i) of this rule, all pleadings and other papers after

the complaint required to be served upon a party shall be filed with the court either before service or promptly thereafter.

(2) Sanctions. The effect of failing to file a complaint is governed by rule 3. If a party fails to file any other pleading or paper under this rule, the court upon 5 days' notice of motion for sanctions may dismiss the action or strike the pleading or other paper and grant judgment against the defaulting party for costs and terms including a reasonable attorney fee unless good cause is shown for, or justice requires, the granting of an extension of time.

(3) Limitation. No sanction shall be imposed if prior to the hearing the pleading or paper other than the complaint is filed and the moving attorney is notified of the filing before he leaves his office for the hearing.

(4) Nonpayment. No further action shall be taken in the pending action and no subsequent pleading or other paper shall be filed until the judgment is paid. No subsequent action shall be commenced upon the same subject matter until the judgment has been paid.

CR 5(i)
[NEW RULE]

(i) Discovery Material Not To Be Filed; Exceptions. Depositions upon oral examinations, depositions upon written questions, interrogatories and responses thereto, requests for production or inspection and responses thereto, requests for admission and responses thereto, and other discovery requests and responses thereto shall not be filed with the court unless for use in a proceeding or trial or on order of the court.

CR 30(f)

(f) Certification and Filing Service by Officer; Exhibits; Copies; Notice of Filing.

(1) The officer shall certify on the deposition transcript that the witness was duly sworn by him and that the deposition transcript is a true record of the testimony given by the witness. He The officer shall then securely seal secure the deposition transcript in an envelope endorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing serve it on the person who ordered the transcript, unless the court orders otherwise.

Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may substitute copies to be marked for identification, if he the person affords to all parties fair opportunity to verify the copies of by comparison with the originals, and (B) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if

annexed to and returned with the deposition. Any party may move for an order that the original be annexed to the deposition transcript and returned filed with the deposition to the court, pending final disposition of the case.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition transcript to any party or the deponent.

(3) The officer serving or filing the deposition transcript shall give prompt notice of its filing such action to all parties and file such notice with the clerk of the court.

CR 31

DEPOSITIONS UPON WRITTEN QUESTIONS

(a) Serving Questions; Notice. After the summons and a copy of the complaint are served, or the complaint is filed, whichever shall first occur, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of rule 30(b)(6).

Within 15 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) Officer To Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by rule 30(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail serve the deposition transcript, attaching thereto the copy of the notice and the questions received by him the officer, on the party taking the deposition, unless the court orders otherwise.

(c) Notice of Filing Service. When the deposition is filed has been served, the officer filing it shall promptly give notice thereof of its service to all other parties and file such notice with the clerk of the court.

CR 43(f)

(f) Adverse Party as Witness.

(1) Party or Managing Agent as Adverse Witness. A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association which is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in rule 30(a) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown in the manner prescribed in rule 30(b), the court may make orders for the protection of the party or managing agent to be examined.

(2) Effect of Discovery, etc. A party who has filed served interrogatories to be answered by the adverse party or who has taken the deposition of an adverse party or of the managing agent of an adverse party shall not be precluded for that reason from examining such adverse party or managing agent at the trial. The testimony of an adverse party or managing agent at the trial or on deposition or interrogatories shall not bind his the adversary but may be rebutted.

(3) Refusal To Attend and Testify; Penalties. If a party or a managing agent refuses to attend and testify before the officer designated to take his deposition or at the trial after notice served as prescribed in rule 30(a), the complaint, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(A) to compel any person to answer any question where such answer might tend to incriminate him;

(B) to prevent a party from using a subpoena to compel the attendance of any party or managing agent to give testimony by deposition or at the trial; nor

(C) to limit the applicability of any other sanctions or penalties provided in rule 37 or otherwise for failure to attend and give testimony.

CR 56

SUMMARY JUDGMENT

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, at any time after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings. The motion and any supporting affidavits, memoranda of law, or other documentation shall be filed and served at least 10 not later than 21 calendar days before the time fixed for the hearing. The adverse party, prior to the day of hearing, may file and serve opposing affidavits, memoranda of law or other documentation not later than 10 calendar days before the hearing. The moving party may file and serve any rebuttal documents not later than 5 calendar days prior to the hearing. Summary judgment motions shall be heard more than 14 calendar days before the date set for trial unless leave of court is granted to allow otherwise. Confirmation of the hearing may be required by local rules. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the court may

Vernon R. Pearson

Chief Justice

**RULE 16
INACTIVE STATUS**

Any Limited Practice Officer may request leave of the Limited Practice Board to move to inactive status after being certified.

Any Limited Practice Officer who has been granted inactive status must meet all the continuing education requirements occurring during the period of inactive status within one (1) year of transfer to active status by the Limited Practice Officer.

Any Limited Practice Officer awarded inactive status by the Limited Practice Board is not required to pay the annual fee prescribed by Rule 13 or to meet the insurance requirements prescribed by Rule 14 during the period of inactive status.

If a Limited Practice Officer remains on inactive status for longer than two (2) years from the date of transfer to inactive status, the Limited Practice Officer can be returned to active status only after successfully taking the examination required for certification under APR 12.

A Limited Practice Officer who has been awarded voluntary inactive status may return to active status by filing a petition to return to active status with the Board within two (2) years from the date the LPO was granted voluntary inactive status. To be granted active status, the Limited Practice Officer must pay the annual dues prescribed by Rule 13 and meet the insurance requirements prescribed by Rule 14.

refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

CR 78(d)

~~(d) Receipt and Publication Filing of Depositions. Upon the receipt filing of a deposition transcript in any case pursuant to rule 5(i), the clerk shall forthwith endorse the date of the reception filing upon the wrapper thereof envelope, and shall enter the same upon the appearance case history docket. Such deposition shall remain unopened until the court shall order the same to be published, which will be at the request of either party. When publication is ordered, the clerk shall endorse upon the same: "This deposition filed [giving the date on the wrapper] and published this _____ day of _____, 19____." The wrapper shall be preserved by the clerk without unnecessary mutilation.~~

Reviser's note: The brackets and enclosed material in the text of the above material occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above material appeared in the original copy of the Supreme Court and appears herein pursuant to the requirements of RCW 34.08.040.

**WSR 88-13-015
RULES OF COURT
STATE SUPREME COURT
[June 2, 1988]**

**WSR 88-13-016
RULES OF COURT
STATE SUPREME COURT
[June 2, 1988]**

In the Matter of the Adoption of
APR 12 Admissions to Practice Rule
16 - Inactive Status

No. 25700-A-414
ORDER

IN THE MATTER OF THE
AMENDMENT TO RPC 1.14

No. 25700-A-416
ORDER

The Limited Practice Board having, pursuant to APR 12(b)(ix), recommended the approval of an amendment to APR 12 Admission to Practice Rule 16 - Inactive Status, and the Court having determined that the amendment will aid the Limited Practice Board in fulfilling the duties as required under APR 12.

Now, therefore, it is hereby

ORDERED:

That the amendment to APR 12 Admission to Practice Rule 16 - Inactive Status as attached hereto is adopted.

DATED at Olympia, Washington this 2nd day of June, 1988.

The Legal Foundation of Washington having approved the proposed amendment to RPC 1.14 and the Court having determined that the amendment will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates and early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of June, 1988.

	Vernon R. Pearson
Robert F. Utter	James A. Andersen
Robert F. Brachtenbach	Keith M. Callow
James M. Dolliver	Wm. C. Goodloe
Fred H. Dore	B. Durham

EXHIBIT "A"
RPC 1.14

(c)(1) A lawyer who receives client funds shall maintain a pooled interest-bearing trust account for deposit of client funds that are nominal in amount or expected to be held for a short period of time. The interest accruing on this account, net of any transaction costs reasonable check and deposit processing charges which shall only include items deposited charge, monthly maintenance fee, per item check charge, and per deposit charge, shall be paid to The Legal Foundation of Washington, as established by the Supreme Court of Washington. All other fees and transaction costs shall be paid by the lawyer. A lawyer may, but shall not be required to, notify the client of the intended use of such funds.

(c)(4) As to accounts created under subsection (c)(1), lawyers or law firms shall direct the depository institution:

(a) To remit interest or dividends, net of any service charges or fees reasonable check and deposit processing charges which shall only include items deposited charge, monthly maintenance fee, per item check charge and per deposit charge, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the Legal Foundation of Washington (the Foundation); Other fees and transaction costs will be directed to the lawyer;

WSR 88-13-017
RULES OF COURT
STATE SUPREME COURT
[June 2, 1988]

IN THE MATTER OF THE
AMENDMENT TO SAR 17

No. 25700-A-417
ORDER

The Commission on Supreme Court Reports having approved the proposed amendment to SAR 17 and the Court having determined that the amendment will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously in

the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of June, 1988.

	Vernon R. Pearson
Robert F. Utter	James A. Andersen
Robert F. Brachtenbach	Keith M. Callow
James M. Dolliver	Wm. C. Goodloe
Fred H. Dore	B. Durham

SAR 17
Reporter—Appointment—Duties

(1) The Justices of the Supreme Court shall appoint a reporter for the decisions opinions of the court, who shall be removeable at their pleasure. The reporter shall receive such annual salary as shall be fixed and determined by the Supreme Court.

(2) The reporter shall prepare the decisions opinions of the Supreme Court and of the Court of Appeals for publication in the weekly advance sheets and in the permanent volumes of the Washington Reports and the Washington Appellate Reports. The decisions opinions shall be published chronologically, unless otherwise directed by the court.

(3) The reporter shall publish the rules of court and a cumulative subject index for multiple volumes as directed by the court.

(4) The reporter shall be a member of the Commission on Supreme Court Reports and shall perform any and all other duties as may be prescribed by the Supreme Court or by statute.

(5) The reporter shall prepare the opinions for publication by giving the title of each case, a list of the precedential holdings in the opinion, a summary of the nature of the action and prior court proceedings, and the names of counsel. Each advance sheet shall contain a table of cases and a subject index. The last advance sheet of a volume shall contain a cumulative table of cases and subject index.

Before publishing the permanent volume, the advance sheet material shall be revised by adding citations to unofficial parallel reports, volume and page numbers for recent citations, and dispositions of motions for reconsideration, petitions for review, and other post filing dispositions. The reporter shall also make corrections for typographical errors noted in the advance sheets, revisions of language directed by modification orders, and changes otherwise directed by the courts. Opinions withdrawn shall be deleted, and tables and indexes shall be revised accordingly. Additional material such as memorials, and rolls of attorneys shall be inserted in the permanent volume as directed by the courts or in the discretion of the reporter.

~~(3) When in any case a motion for reconsideration has been made and denied, he shall make a notation thereof at the conclusion of the decision as reported in the permanent volume.~~

~~(4) He shall prepare the decisions for publication in the weekly advance sheets by giving the title of each case, the classification of the points decided, and the names of counsel, and shall prepare a subject index to each book and prefix a table of cases reported. When the decisions published in a volume of advance sheets approximately equal those to be published in the corresponding permanent volume, the volume of advance sheets shall be closed, and the reporter shall prepare a cumulative subject index covering such volume, to be published in the last book thereof.~~

~~(5) He shall prepare the decisions for publication in the permanent volumes by giving the title of each case, a syllabus of the points decided, and the names of counsel, and shall prepare a full and comprehensive index of each volume, and prefix a table of cases reported.~~

~~(6) He shall furnish to each of the Justices proof sheets of the decisions written by such Justice, as the same are to appear in the bound volume, and, after examination, the Justice will return them to the reporter.~~

Reviser's note: The spelling error in the above material appeared in the original copy of the Supreme Court and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-13-018

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 169—Filed June 6, 1988—Eff. August 1, 1988]

Be it resolved by the Higher Education Personnel Board, acting at Edmonds Community College, 2000 68th Avenue West, Lynnwood, WA, that it does adopt the annexed rules relating to:

New WAC 251-01-028 Anniversary date.
Rep WAC 251-17-140 Applicants—Anonymity.

This action is taken pursuant to Notice No. WSR 88-09-057 filed with the code reviser on April 20, 1988. These rules shall take effect at a later date, such date being August 1, 1988.

This rule is promulgated under the general rule-making authority of the Higher Education Personnel Board as authorized in RCW 28B.16.100.

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 June 6, 1988.

By John A. Spitz
Director

NEW SECTION

WAC 251-01-028 ANNIVERSARY DATE. The most recent date of hire into state service which is used

in determining if vacation leave in excess of two hundred forty hours is to be extinguished.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-17-140 APPLICANTS—ANONYMITY.

WSR 88-13-019

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 168—Filed June 6, 1988]

Be it resolved by the Higher Education Personnel Board, that it does adopt the annexed rules relating to:

Amd WAC 251-01-057 Child care emergency.
Amd WAC 251-22-110 Sick leave—Use.
Rep WAC 251-22-115 Maternity leave.

This action is taken pursuant to Notice No. WSR 88-09-056 filed with the code reviser on April 20, 1988. 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 Higher Education Personnel Board as authorized in RCW 28B.16.100.

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 June 6, 1988.

By John A. Spitz
Director

AMENDATORY SECTION (Amending Order 156, filed 7/1/87, effective 8/1/87)

WAC 251-01-057 CHILD CARE EMERGENCY. A situation causing an employee's inability to report for or continue scheduled work because of emergency child care requirements ("child" as identified in WAC ((251-01-208)) 251-01-172), such as unexpected absence of regular care provider, unexpected closure of child's school, or unexpected need to pick up child at school earlier than normal.

AMENDATORY SECTION (Amending Order 156, filed 7/1/87, effective 8/1/87)

WAC 251-22-110 SICK LEAVE—USE. (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty

would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness or injury of a family member fifteen years of age and over that require the presence of the employee to provide immediate necessary care of the patient or to make arrangements for extended care. The personnel officer may authorize sick leave use as provided in this subsection for other than family members. The applicability of "emergency," "necessary care" and "extended care" shall be made by the personnel officer.

(d) Because of illness or injury of a child (as identified in WAC ((251-01-208)) 251-01-172) under the age of fifteen when the employee's presence is required to provide necessary care or to make arrangements for extended care.

(e) Because of illness or injury of a family member who is a person of disability and requires the employee's presence to provide short-term care or to make arrangements for extended care.

(f) To provide emergency child care for the employee's child (as identified in WAC ((251-01-208)) 251-01-172). Such use of sick leave is limited to three days in any calendar year, unless extended by the personnel officer, and shall be used only as specified in WAC 251-22-117.

(g) Because of a family member's death that requires the assistance of the employee in making arrangements for interment of the deceased.

(h) For personal medical, dental, or optical appointments or for family members' appointments when the presence of the employee is required, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-22-115 MATERNITY LEAVE.

WSR 88-13-020
EMERGENCY RULES
BOARD OF TAX APPEALS
[Order 88-1—Filed June 7, 1988]

Be it resolved by the Board of Tax Appeals, acting at Olympia, Washington, that it does adopt the annexed rules relating to WAC 456-08-006 and 456-08-705.

We, the Board of Tax Appeals, 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 SHB 1754 amended RCW 82.03.140 and 84.08.130, the effective date of which is June 9, 1988. Amendments to these rules are intended to comply with SHB 1754. This emergency rule

is necessary until permanent rules, adopted June 7, 1988, take effect on July 7, 1988.

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

This rule is promulgated pursuant to RCW 82.03.170 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 June 7, 1988.

By Lucille Carlson
Chair

AMENDATORY SECTION (Amending Order 6, filed 4/1/75)

WAC 456-08-006 TIME FOR APPEAL. (1) A notice of appeal for an appeal authorized under RCW 82.03.130 (1), (3) and (4), RCW 84.36.850, and RCW 84.34.065, shall be filed in the office of the board and a copy thereof served upon the department of revenue within thirty days of the date of the order or determination from which the appeal is taken. In appeals authorized by RCW 84.36.850 a copy of the notice of appeal shall also be served on the property owner when the assessor is the appellant and on the assessor when the property owner is the appellant. Proof of such service shall accompany notice of appeal filed with the board.

(2) Notice of appeal pursuant to RCW ((82.04.291(4))) 84.33.091 shall be filed with the board and a copy served on the department of revenue on or before the sixtieth day after the final adoption by the department of revenue of any stumpage value tables.

(3) Notice of appeal for an appeal authorized under RCW 82.03.130(2), shall be filed and served in duplicate with the county auditor pursuant to RCW 84.08.130 within ((ten)) thirty days of the ((action being appealed)) mailing of the decision, and in accordance with such forms and requirements as may be designated by the board of tax appeals. The county auditor shall forthwith transmit one copy of the notice of appeal to the board of tax appeals. The petitioner shall mail a copy of the notice of appeal to all other parties. Appeals which have not been filed with the county auditor within the thirty day period provided above shall be dismissed. Appeals not otherwise complying with this subsection shall be continued or dismissed as deemed appropriate.

AMENDATORY SECTION (Amending Order 6, filed 4/1/75)

WAC 456-08-705 RULES RELATING TO PLEADINGS — TYPE OF HEARING. (1) If the appellant in its notice of appeal does not request a formal hearing under the Administrative Procedure Act (chapter 34.04 RCW), the department of revenue in those cases appealed under RCW 82.03.190 may within ten days of service of the notice of appeal upon it file with the clerk of the board written notice of its intention that

the hearing be held pursuant to the Administrative Procedure Act.

(2) In appeals taken under RCW 82.03.130(2), the appellant may elect, within thirty days after the date of the filing with the county auditor of the notice of appeal required by RCW 84.08.130, to have the case determined by a formal hearing under the Administrative Procedure Act (chapter 34.04 RCW). Such election shall be made by service of a written notice upon the board. The board shall thereupon notify the appellant and respondent that such election has been made: **PROVIDED, HOWEVER, That no such election can be made less than five days prior to the scheduled date of the informal hearing. AND PROVIDED FURTHER, That in an appeal pursuant to RCW 84.08.130, the respondent (whether assessor or taxpayer) may elect a formal hearing by filing with the clerk of the board within 20 days from the receipt of the notice of appeal, notice of intention that the hearing be held pursuant to the Administrative Procedure Act.**

(3) When appeals are taken from the same decision, order or determination by different parties, a timely request by any party permitted to elect a formal hearing will result in the appeal being conducted as a formal hearing.

(4) The failure to file with the board of tax appeals, without having obtained a continuance, of the notice of appeal in the form required by WAC 456-08-710 within thirty days of having elected a formal hearing shall constitute a withdrawal of the request for a formal hearing and the hearing shall proceed as an informal proceeding.

NEW SECTION

WAC 456-08-009 **EFFECTIVE DATE.** The effective date of these rules shall be June 9, 1988.

WSR 88-13-021
ADOPTED RULES
BOARD OF TAX APPEALS
[Order 88-2—Filed June 7, 1988]

Be it resolved by the Board of Tax Appeals, acting at Olympia, Washington, that it does adopt the annexed rules relating to WAC 456-08-006 and 456-08-705.

This action is taken pursuant to Notice No. WSR 88-10-051 filed with the code reviser on May 4, 1988. 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 82.03.170 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 June 7, 1988.

By Lucille Carlson
Chair

AMENDATORY SECTION (Amending Order 6, filed 4/1/75)

WAC 456-08-006 **TIME FOR APPEAL.** (1) A notice of appeal for an appeal authorized under RCW 82.03.130 (1), (3) and (4), RCW 84.36.850, and RCW 84.34.065, shall be filed in the office of the board and a copy thereof served upon the department of revenue within thirty days of the date of the order or determination from which the appeal is taken. In appeals authorized by RCW 84.36.850 a copy of the notice of appeal shall also be served on the property owner when the assessor is the appellant and on the assessor when the property owner is the appellant. Proof of such service shall accompany notice of appeal filed with the board.

(2) Notice of appeal pursuant to RCW ((82.04.291(4))) 84.33.091 shall be filed with the board and a copy served on the department of revenue on or before the sixtieth day after the final adoption by the department of revenue of any stumpage value tables.

(3) Notice of appeal for an appeal authorized under RCW 82.03.130(2), shall be filed and served in duplicate with the county auditor pursuant to RCW 84.08.130 within ((ten)) thirty days of the ((action being appealed)) mailing of the decision, and in accordance with such forms and requirements as may be designated by the board of tax appeals. The county auditor shall forthwith transmit one copy of the notice of appeal to the board of tax appeals. The petitioner shall mail a copy of the notice of appeal to all other parties. Appeals which have not been filed with the county auditor within the thirty day period provided above shall be dismissed. Appeals not otherwise complying with this subsection shall be continued or dismissed as deemed appropriate.

AMENDATORY SECTION (Amending Order 6, filed 4/1/75)

WAC 456-08-705 **RULES RELATING TO PLEADINGS — TYPE OF HEARING.** (1) If the appellant in its notice of appeal does not request a formal hearing under the Administrative Procedure Act (chapter 34.04 RCW), the department of revenue in those cases appealed under RCW 82.03.190 may within ten days of service of the notice of appeal upon it file with the clerk of the board written notice of its intention that the hearing be held pursuant to the Administrative Procedure Act.

(2) In appeals taken under RCW 82.03.130(2), the appellant may elect, within thirty days after the date of the filing with the county auditor of the notice of appeal required by RCW 84.08.130, to have the case determined by a formal hearing under the Administrative Procedure Act (chapter 34.04 RCW). Such election shall be made by service of a written notice upon the board. The board shall thereupon notify the appellant and respondent that such election has been made: **PROVIDED, HOWEVER, That no such election can be made less than five days prior to the scheduled date of**

the informal hearing. AND PROVIDED FURTHER, That in an appeal pursuant to RCW 84.08.130, the respondent (whether assessor or taxpayer) may elect a formal hearing by filing with the clerk of the board within 20 days from the receipt of the notice of appeal, notice of intention that the hearing be held pursuant to the Administrative Procedure Act.

(3) When appeals are taken from the same decision, order or determination by different parties, a timely request by any party permitted to elect a formal hearing will result in the appeal being conducted as a formal hearing.

(4) The failure to file with the board of tax appeals, without having obtained a continuance, of the notice of appeal in the form required by WAC 456-08-710 within thirty days of having elected a formal hearing shall constitute a withdrawal of the request for a formal hearing and the hearing shall proceed as an informal proceeding.

WSR 88-13-022

NOTICE OF PUBLIC MEETINGS CENTRALIA COLLEGE [Memorandum—June 3, 1988]

The board of trustees for Washington Community College District Twelve, at their meeting on June 2, 1988, set their first regular meeting of the 1988-89 year to be held on Thursday, July 7, 1988, at 4:30 p.m. in the Boardroom at Centralia College. The 1988-89 meeting schedule will be presented and approved at that time.

This schedule delay is due to the recent appointment of three new board members and the desire of the current board members to accommodate everyone's schedules.

WSR 88-13-023

PROPOSED RULES DEPARTMENT OF COMMUNITY DEVELOPMENT (Public Works Board) [Filed June 7, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Works Board intends to adopt, amend, or repeal rules concerning application evaluation procedure and board deliberations as found currently in emergency WAC 399-30-042;

that the agency will at 9:00 a.m., Tuesday, August 2, 1988, in the Red Lion Inn, 18740 Pacific Highway South, Seattle, 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 43.155.040(4).

The specific statute these rules are intended to implement is RCW 43.155.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Friday, July 29, 1988.

Dated: June 6, 1988

By: John Swannack
for Chuck Clarke
Director

STATEMENT OF PURPOSE

Title: WAC 399-30-042 Application evaluation procedure and board deliberations.

Statutory Authority and Specific Statute the Rule is Intended to Implement: RCW 43.155.040(4) to implement RCW 43.155.070.

Summary of the Rule and Statement of the Reasons Supporting the Proposed Action: To revise the procedures by which applications for loans from the public works assistance account will be considered, evaluated and prioritized.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Robert C. Anderson, Chair, Public Works Board, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 586-0490.

Name of the Organization Proposing the Rule: Public Works Board.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: These rules are necessary to carry out the intent of chapter 43.155 RCW, which creates the Public Works Board and authorizes it to make low-interest or interest-free loans for public works projects that meet the legislation's criteria and standards.

Whether the Rule is Necessary as the Result of Federal Law or Federal or State Court Action: No.

Small Business Impact Statement: Not applicable.

NEW SECTION

WAC 399-30-042 APPLICATION EVALUATION PROCEDURE AND BOARD DELIBERATIONS—CAPITAL PLANNING SUPPORT. (1) The board will consider and prioritize, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) All applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the application. Up to one hundred points may be awarded in the evaluation of each application. Questions 12 through 15, 18 and 19 will be evaluated to determine this score.

(d) Staff will provide the board with preliminary evaluation and scoring of applications. All application materials will be available to the board for its deliberations. The board will develop a ranked list of projects based on the information provided to it by the staff and the applicants.

(e) The board may then adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects on the recommended list for funding.

(3) Applicants will be notified in writing of board decisions.

WSR 88-13-024

EMERGENCY RULES

**DEPARTMENT OF COMMUNITY DEVELOPMENT
(Public Works Board)**

[Order 88-03—Filed June 7, 1988]

Be it resolved by the Public Works Board, acting at the Ramada Inn, Spokane International Airport, Spokane Washington, that it does adopt the annexed rules relating to Application evaluation procedure and board deliberations—Capital planning support.

We, the Public Works 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 limited time available between adoption of the loan application form and release of the form to the public.

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 Public Works Board as authorized in RCW 43.155.040.

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 June 6, 1988.

By John Swannack
for Director

NEW SECTION

WAC 399-30-042 APPLICATION EVALUATION PROCEDURE AND BOARD DELIBERATIONS—CAPITAL PLANNING SUPPORT. (1) *The board will consider and prioritize, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.*

(2) *All applications will be evaluated and prioritized in accordance with the following procedures:*

(a) *Staff will log in all applications as received.*

(b) *Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum requirements will be notified in writing of the disqualification.*

(c) *Staff will perform a preliminary evaluation of applications which meet the requirements of WAC 399-*

30-030(2). Applications will be scored according to the number of points awarded for responses provided in the application. Up to one hundred points may be awarded in the evaluation of each application. Questions 12 through 15, 18 and 19 will be evaluated to determine this score.

(d) *Staff will provide the board with preliminary evaluation and scoring of applications. All application materials will be available to the board for its deliberations. The board will develop a ranked list of projects based on the information provided to it by the staff and the applicants.*

(e) *The board may then adjust the ranked list in consideration of the following factors:*

(i) *Geographical balance;*

(ii) *Economic distress;*

(iii) *Other criteria that the board considers advisable.*

(f) *Staff will verify critical information on each project as required by the board.*

(g) *The board may consult on any issue it wishes to address, with officials of jurisdictions having projects on the recommended list for funding.*

(3) *Applicants will be notified in writing of board decisions.*

WSR 88-13-025

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1980—Filed June 7, 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 use of pesticides on seed alfalfa, WAC 16-228-600.

I, C. Alan Pettibone, 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 recent changes in Federal Environmental Protection Agency policy have enabled this agency to declare the alfalfa seed crop a nonfood, nonfeed crop in time for the current growing season. This will allow growers greater freedom in pesticide choice.

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

This rule is promulgated pursuant to chapters 15.58 and 17.21 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 June 7, 1988.

By Michael V. Schwisow
Deputy Director

NEW SECTION

WAC 16-228-600 USE OF PESTICIDES ON SEED ALFALFA. (1) For purposes of pesticide registration, all alfalfa seed crop fields may be considered non-food and non-feed sites of pesticide use, PROVIDED, that the following conditions are met:

(a) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for food or feed. The seed conditioner shall keep records of screening disposal for three years from the date of disposal and shall furnish the records to the director forthwith upon request. Disposal records shall consist of documentation from a controlled dump site, incinerator, or other equivalent disposal site and shall show the amount of material disposed of, its grower, and the date of disposal.

(b) No portion of the seed alfalfa plant, including but not limited to green chop, hay, pellets, meal, whole seed, and cracked seed, may be used or distributed for food or feed purposes.

(c) All alfalfa seed conditioned in this state shall bear a tag which forbids use of the seed for human consumption or animal feed.

(d) No alfalfa seed conditioned in this state may be distributed for human consumption or animal feed.

(2) Violation of any condition listed in subsection (1) of this section is declared to be a violation of chapters 17.21 and 15.58 RCW.

(3) Alfalfa seed crop certified under provisions of chapter 15.86.070 RCW, the Organic Food Products Act, shall be exempt from the requirements of this section.

**WSR 88-13-026
ADOPTED RULES
STATE BOARD OF EDUCATION
[Order 15-88—Filed June 7, 1988]**

Be it resolved by the State Board of Education, acting at the Walla Walla School District Administration Building Boardroom, Walla Walla, Washington, that it does adopt the annexed rules relating to grade reporting and calculation system, WAC 180-57-050.

This action is taken pursuant to Notice No. WSR 88-08-072 filed with the code reviser on April 6, 1988. 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 28A.04.155 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 May 20, 1988.

By Monica Schmidt
Secretary

AMENDATORY SECTION (Amending Order 18-84, filed 12/10/84)

WAC 180-57-050 ((DEFINITION—MARKING)) GRADE REPORTING AND CALCULATION SYSTEM. The standardized high school transcript shall ((be based on a marking/grading system that)) report((s)) the marks/grades earned by students in courses as follows; provided, that there is no requirement to adopt a marking/grading system that uses minuses or pluses or, if adopted, to report minuses or pluses on standardized transcripts:

- (1) A = 4.0
- (2) A- = 3.7
- (3) B+ = 3.3
- (4) B = 3.0
- (5) B- = 2.7
- (6) C+ = 2.3
- (7) C = 2.0
- (8) C- = 1.7
- (9) D+ = 1.3
- (10) D = 1.0
- (11) E or F = 0.0

The minimal passing mark/grade is D = 1.0. Pass/fail, credit/no credit, and satisfactory/unsatisfactory marks ((may)) also may be used; however, notwithstanding the provisions of WAC 180-57-055, these nonnumerical marks/grades shall be clearly identified and excluded from the calculation of grade point average.

**WSR 88-13-027
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 7, 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 citizenship and alien status, amending WAC 388-49-310;

that the agency will at 10:00 a.m., Tuesday, July 26, 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 July 27, 1988.

The authority under which these rules are proposed is RCW 74.04.400.

The specific statute these rules are intended to implement is RCW 74.04.400.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12, 1988. The meeting site is in a location which is barrier free.

Dated: June 6, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.
Re: WAC 388-49-310.

Purpose of the Rule: To change the date an alien entered the United States from "prior to June 30, 1948 to prior to January 1, 1972."

Statutory Authority: RCW 74.04.400.

Summary of Rule Change: This change enables aliens to participate in the food stamp program who entered the United States prior to January 1, 1972; has continuously maintained residency in the United States since then; and not ineligible for citizenship.

Person Responsible for Rule Drafting and Implementation: Jack Hecht, Community Services Program Manager, Division of Income Assistance, scan 234-4918.

This rule change is necessary as a result of federal law, 7 CFR Parts 272 and 273.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-310 CITIZENSHIP AND ALIEN STATUS. (1) Except for subsection (2) of this section, persons participating in the food stamp program shall be residents of the United States and either:

- (a) A United States citizen; or
- (b) An alien lawfully admitted for permanent residence; or
- (c) An alien who:
 - (i) Entered the United States prior to (~~June 30, 1948~~) January 1, 1972, or some later date as required by law; and
 - (ii) Has continuously maintained residency in the United States since then; and
 - (iii) Is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the attorney general pursuant to section 249 of the Immigration and Nationality Act.
- (d) An alien who qualified for entry after March 17, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to sections 203(a)(7), 207, and 208 of the Immigration and Nationality Act((-));
- (e) An alien who qualifies for conditional entry prior to March 18, 1980, pursuant to former section 203(a)(7) of the Immigration and Nationality Act((-));
- (f) An alien granted asylum through an exercise of discretion by the attorney general pursuant to section 208 of the Immigration and Nationality Act((-));
- (g) An alien lawfully present in the United States as a result of:
 - (i) An exercise of discretion by the attorney general for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act; or
 - (ii) A grant of parole by the attorney general.
- (h) An alien living within the United States for whom the attorney general has withheld deportation pursuant to section 243 of the Immigration and Nationality Act because of the judgment of the attorney

general that the alien would otherwise be subject to persecution on account of race, religion, or political opinion((-));

(i) An alien having temporary resident status as a special agricultural worker under section 210 of the Immigration and Nationality Act.

(2) Aliens legalized under section 245A of the Immigration and Nationality Act are ineligible for five years after attaining temporary resident status except for those who:

- (a) Attain permanent resident status, and
 - (b) Receive Supplemental Security Income.
- (3) The household shall provide verification when:
- (a) Citizenship is questionable, or
 - (b) One or more of its members are aliens.
- (i) The department shall not contact the immigration and naturalization service to obtain information without the alien's written consent.
- (ii) The department shall give the household failing to provide verification the option of:
- (A) Withdrawing the application, or
 - (B) Participating without the alien member.
- (4) An applicant shall be ineligible until:
- (a) Questionable citizenship is verified, or
 - (b) Lawful alien status is verified.
- (5) The department shall accept a statement under a penalty of perjury signed by a United States citizen that the applicant is a United States citizen when:
- (a) The applicant cannot produce acceptable citizenship verification((-)); and
 - (b) The household can reasonably explain why the verification is not available.
- (6) The department shall notify immigration and naturalization services when any household member is ineligible because that person is present in the United States in violation of the Immigration and Nationality Act.
- (7) Lawfully admitted aliens who are ineligible include:
- (a) Alien visitors,
 - (b) Tourists,
 - (c) Diplomats, or
 - (d) Students with temporary status.

WSR 88-13-028

ADOPTED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Institutions)

[Order 2632—Filed June 7, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to consolidated juvenile services program, amending chapter 275-35 WAC.

This action is taken pursuant to Notice No. WSR 88-09-038 filed with the code reviser on April 15, 1988. 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 13.06.030 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 June 6, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-020 DEFINITIONS. (1) "Activities" means specific tasks or units of accomplishment which lead to a desired result or outcome.

(2) "Administration" means discrete, assignable activities and costs necessary for overall management and support of a consolidated juvenile services program.

(3) "Application" ((is)) means the document requesting state funds for specific projects under the consolidated juvenile services program.

((2)) (4) "Case plan" means the document establishing direction, providing updates, and revisions of a juvenile's activities in a project or program.

(5) "Consolidated juvenile services program" or "program" ((is)) means that portion of the county's juvenile justice, education, and social service systems providing services to a juvenile who has been adjudicated an offender ((or)), referred to a diversion unit, or is at risk of becoming involved in the juvenile justice system.

((3)) (6) "Consolidated juvenile services review committee" or "review committee" means a group of individuals whose function is to provide input and review and make comments regarding the application. Said review committee shall be selected by the program administrator in consultation with the executive body and include, but not necessarily be limited to, representatives from the following: The executive's office, juvenile court judges and staff, law enforcement, prosecuting and defense attorneys, ((law and justice planning personnel, state-funded diversion units,)) educators, ethnic minorities, children services professionals, citizens, and private sector youth-serving groups.

((4) "Department" means the department of social and health services.

(5)) (7) "Director" means the director of the division of juvenile rehabilitation or his or her designee.

((6)) (8) "Division" means the division of juvenile rehabilitation.

((7)) (9) "Indirect costs" means costs for staff, goods, and services which exist or are required exclusive of the consolidated juvenile services program.

(10) "Juvenile" means an individual under the chronological age of eighteen years and who has not been transferred to adult court.

(11) "Juvenile justice system" or "system" means the organizational structure and process existing in the county for handling ((juvenile offenders)) juveniles accused of or adjudicated for an offense.

((8)) (12) "Juvenile offender" means a juvenile found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom the juvenile court has extended jurisdiction.

(13) "Participating county" means a county or counties making application under this chapter.

((9)) (14) "Planning body" means that individual or group of individuals responsible for the development of the application.

((10)) (15) "Program administrator" or "administrator" means the person designated to administer the consolidated juvenile services program. ((This will be the

juvenile court administrator except in those counties choosing not to participate in CJS or in those instances where the juvenile court administrator chooses not to administer the program. (11))

(16) "Project" ((is)) means a single unit of work to be performed as part of a consolidated juvenile services program.

((12)) (17) "Project supervisor" or "supervisor" means a person designated to supervise a project or projects in the consolidated juvenile services program.

((13)) (18) "Regional administrator" means the regional administrator of one of the division's six administrative regions, or his or her designee.

((14)) (19) "Regional plan" means the document ((approved)) developed by the ((division)) regional administrator setting forth regional program emphasis and priorities for the ensuing funding period.

((15) "Secretary" means the secretary of the department of social and health services)) (20) "Results" means outcomes or indications that activities have been accomplished.

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-030 ESTABLISHMENT OF A CONSOLIDATED JUVENILE SERVICES PROGRAM. (1) Request to participate.

(a) A request by a county or group of counties to participate under these provisions shall include a resolution or letter of intent submitted to the division by the executive body expressing intent to participate.

(b) After official acceptance by the regional administrator, the county's application ((with)) shall be considered in determining the division's community program expenditure for the ensuing funding period.

(c) Other public and private sector agencies within the county shall be considered in the development of the application and may be included as subcontractors in the county's request for funding by the division.

(d) Other public and private sector agencies may apply directly to the division for program funds. In such instances said agencies shall be responsible to meet all obligations and requirements specified for participating counties under this chapter.

(2) Program planning process and approval.

(a) Based upon divisional goals, the regional administrator develops the regional ((priorities)) plan to assist planning bodies in formulating local priorities and program strategies.

(b) Each participating county shall develop through its existing planning process a program application for the delivery of services ((to juvenile offenders)) and shall agree through submission of the application to comply with the provisions of this chapter.

(c) The application ((with)) shall be submitted to the review committee who ((with)) shall review and make comments, which shall include but not be limited to the following areas:

(i) ((The provision of services to identified offender groups and access to services by all offenders;

(ii)) Efforts to identify and utilize existing community services;

~~((iii)) (ii) The avoidance of service duplication;~~
~~((iv) The maintenance of existing county and private agency commitment of funds to juvenile offender programs;~~

~~(v)) (iii) Appropriate linkage to and support from other elements of the county's existing juvenile justice, education, and social service systems; and~~

~~((vi)) (iv) The extent to which the regional ((priorities have)) plan has been ((considered)) addressed.~~

(d) Prior to the submission of the application to the regional administrator, the comments of the review committee ~~((will)) shall~~ be considered by the planning body who ~~((will)) shall~~, if needed, either modify the plan or attach to the plan the reasons for not making suggested modifications.

(e) Written guidelines and instructions for preparing the application ~~((will)) shall~~ be provided by the division. The application shall be developed in consultation with the regional administrator to ensure the coordination of state, county, and private sector resources within regional boundaries and shall be submitted to the regional administrator for review and ~~((subsequent)) approval.~~

(f) The division may provide planning bodies and review committees with technical services in the development of the application.

~~((3) Definitions of juvenile offender groups. Applications submitted must address service components for at least the following groups of juvenile offenders:~~

~~(a) Divertees. Juveniles participating in diversion under chapter 13.40 RCW.~~

~~(b) Court-adjudicated offenders not committed to the department. Juveniles who have been adjudicated by the court, but not committed to the department, and fall into one of the following categories:~~

~~(i) Minor/first offenders. Juvenile offenders defined as minor/first under chapter 13.40 RCW.~~

~~(ii) Middle offenders. Juvenile offenders who:~~
~~(A) Are not minor/first offenders as defined by chapter 13.40 RCW, or~~

~~(B) Have less than one hundred ten points on the standard sentencing scale, or~~

~~(C) Have not been committed to the department through the declaration of "manifest injustice."~~

~~(iii) High risk offenders. Juvenile offenders who:~~

~~(A) Have one hundred ten points or more on the standard sentencing scale, or~~

~~(B) Have committed a current offense that is a felony and are already on community supervision as a middle or serious offender, or~~

~~(C) Have committed a current offense which is a felony against people, or~~

~~(D) Have committed a current offense which is a felony and have evidenced increasingly serious criminal behavior within the previous twelve months, or~~

~~(E) Are defined as a serious offender by chapter 13.40 RCW and are allowed to remain in the community through the declaration of "manifest injustice."~~

~~(c) Court-adjudicated offenders committed to the department. Juveniles who have been adjudicated by the court and committed to the department, and fall into one of the following categories:~~

~~(i) Juveniles residing in the community as parolees or under the community residential placement program:~~

~~(ii) Juveniles residing in a county detention facility under a community commitment program:~~

~~(iii) Juveniles residing in a division institution or group home:~~

~~(d) Interstate compact agreement offenders. Juveniles supervised on parole through the interstate compact agreement.))~~

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-040 GENERAL PROVISIONS. (1) Access to services and use of existing community resources.

(a) Program administrators shall ensure all ~~((juvenile offenders)) juveniles participating in the program~~ have access to appropriate services, activities, and opportunities.

(b) Planning bodies shall avoid duplicating existing community services. If proposed services are similar to those already existing in the community, clear evidence must be presented in the application to demonstrate why such existing services are inappropriate or unavailable to meet identified needs or why such services cannot be provided through cooperative program planning or shared funding arrangements.

(2) All juveniles served by projects covered under this chapter shall be afforded due process in all contacts, especially those which may result in a more restrictive intervention.

(3) All projects included in the application shall comply with the provisions of this chapter, applicable divisional policies and standards, juvenile court rules, as well as other applicable standards and rules.

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-050 ORGANIZATION. ~~((+))~~ The organizational structure of the program is the prerogative of the county or private sector agency participating under this chapter and shall not be dictated by these standards.

~~((2) The organizational structure shall be set forth in the application and shall reflect the program's relationship to other juvenile justice components operating within the county and region.))~~

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-060 ADMINISTRATION. (1) ~~((The distribution of funds for consolidated juvenile services programs))~~ Approval of the application shall be contingent upon(:

~~(a)) the designation of a program administrator(;~~ and ~~(b) The designation of))~~ as well as a ~~((single project))~~ supervisor for each ~~((subcontract awarded outside the prime contract))~~ project.

Said administrators and supervisors are responsible for the implementation of the program and the accomplishment of stated activities(;) and results(~~and impacts~~).

(2) Administrators or supervisors ~~((with))~~ shall meet at least ~~((quarterly))~~ twice annually with the regional administrator ~~((or designees))~~ to review progress toward the achievement of results and other matters related to the overall implementation and funding of projects within the ~~((consolidated juvenile services))~~ program.

(3) Administrators or supervisors shall submit ~~((activity, narrative, and other))~~ reports and data as requested relating to programs and/or projects covered under this chapter to the regional administrator and shall participate with the regional administrator in the development of program and/or project status reports as may be required by the division.

(4) Case records and management information.

(a) Administrators and supervisors shall ensure a case record is kept for each juvenile ~~((offender))~~ in projects covered under this chapter ~~((except))~~. Diversion units will keep only such information as is necessary to monitor and evaluate the referral and disposition activities.

(b) Juvenile offender records ~~((other than diversion))~~ shall minimally contain ~~((i) A treatment plan based upon identified needs setting))~~ a case plan, based upon assessed factors related to risk to reoffend, setting forth specific objectives and methods ~~((in concise behavioral terms;))~~ and ~~((ii))~~ a termination/closing report summarizing case activity and results.

(c) Case records and plans shall be current and ~~((treatment plans updated))~~ reviewed at least quarterly by the project supervisor. Reviews shall be documented in the case record.

(d) The provisions of chapter 13.50 RCW pertaining to the maintenance and confidentiality of social and legal information apply to all programs and projects covered under this chapter.

(e) Administrators and/or supervisors ~~((with))~~ shall provide necessary statistical data to maintain case files in the division's management information system.

(5) Policies and procedures.

(a) Each administrator shall maintain written policies and procedures ~~((which shall include, but not be limited to, the following: (i))~~ for the reporting of serious criminal incidents involving juveniles participating in the program ~~((to the regional administrator. (ii) Reporting of))~~ and misconduct or malfeasance by staff of the program to the regional administrator.

(b) These policies and procedures ~~((with))~~ shall be ~~((reviewed at least annually by the regional administrator or designee))~~ submitted as attachments to the application.

(6) Change in application.

(a) Modification of a project requires the advance written approval of the regional administrator and may, at the regional administrator's discretion, require review and comment by the review committee.

(b) Changes in the budget during a funding period are accomplished by transfer, modification, or amendment.

(i) Transfers. The reallocation of funds between line items of the contract ~~((which will))~~ not ~~((exceed))~~ exceeding four thousand dollars or five percent, whichever is less, of the total budget within a fiscal year and which ~~((with))~~ does not change the overall scope of the program may be accomplished by written notification to the regional administrator.

(ii) Modifications. Reallocation of funds between line items of the contract exceeding four thousand dollars or five percent, whichever is less, of the total budget within a fiscal year requires advance written approval of the regional administrator. The regional administrator may require review and comment by the review committee.

(iii) Amendments. Amendments ~~((require the involvement of the department's contracts office;))~~ shall be processed through the division's regional office, and may, at the regional administrator's discretion, require review and comment by the review committee. Amendments are necessary when:

(A) Contract amounts are increased or decreased;

(B) ~~((Major change in the application))~~ A project is ~~((proposed))~~ added or deleted;

(C) Increased agency staffing is requested;

(D) A change exceeds ten percent of the total contract budget;

(E) A change moves moneys into a previously vacant line item.

(7) Training. Each participating county or agency ~~((providing services under this chapter))~~ shall ~~((provide relevant))~~ ensure program staff receive training necessary to execute programs covered under this chapter.

(8) Assumption of division services.

(a) The assumption of division services shall be negotiated between the regional administrator and the administrator and will be reviewed by ~~((the review committee and))~~ the ~~((division's central office))~~ director prior to a final decision.

(b) Where such services are assumed, the regional administrator ~~((with))~~ shall provide appropriate orientation and training.

(9) Review board authority in projects covered by this chapter shall rest with the administrator.

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-070 MONITORING OF PERFORMANCE AND EVALUATION OF PROGRAM IMPACT. (1) It shall be the responsibility of the administrator to submit activity reports, ~~((quarterly))~~ narrative reports, corrective action plans and reports, and other such reports as specified in the division's monitoring ~~((system))~~ instructions for the program to the regional administrator.

(2) It shall be the responsibility of the regional administrator to submit to the ~~((division's central office))~~ director progress reports as specified in the division's monitoring ~~((system))~~ instructions for the program.

(3) The regional administrator may, at any time, request a formal program/project or fiscal audit ~~((through the department))~~ and may also request other available technical services to assist in monitoring and evaluating the program/projects.

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-080 DISTRIBUTION OF FUNDS AND FISCAL MANAGEMENT. (1) Funding constraints.

(a) Funds for programs covered by this chapter shall be utilized for the achievement of activities(~~(:)~~) and results(~~(, and impacts)~~) stated for each project.

(b) Failure on the part of any project to perform in accordance with the provisions of this chapter or to achieve established activities(~~(:)~~) and results(~~(, and impacts)~~) may result in the termination or reduction of funds.

(c) The administrator shall be responsible for the management of all fiscal matters related to the program, shall comply with state and local policies and procedures and the terms and conditions of the contract, and shall provide information to the regional administrator at regular and requested intervals.

(2) Limitations of funding.

(a) Funds received by participating counties shall not be used (~~(to replace local funds for existing services)~~) for indirect costs.

(b) Mileage reimbursement and per diem may not exceed the current allowable state or county rate, whichever is less.

(c) Equipment purchases (~~(must)~~) shall be approved in advance by the regional administrator and (~~(should)~~) shall be processed through the regional office whenever possible and feasible.

(d) Funds for evaluation are allowable, but the design, scope, and the expected final product (~~(must)~~) shall be clearly specified in the application.

(e) Funds for (~~(administrative salaries, benefits, and program support)~~) administration may not exceed ten percent of the total contract award.

(f) Further limitations on the distribution of funds for certain expenditure categories may be set forth in the division's application and budget instructions for the program.

AMENDATORY SECTION (Amending Order 2221, filed 4/4/85)

WAC 275-35-100 EXCEPTIONS TO RULES. A waiver of the specific requirements of this chapter may be requested by written application to the director in situations where the imposition of such provisions can be shown to be detrimental or impractical to overall program operations. The director (~~(will)~~) shall give each waiver request individual consideration and promptly advise the applicant in writing of the director's decision regarding the waiver and explain the basis for such decision.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 275-35-090 SERVICES.

WSR 88-13-029

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order 88-62—Filed June 8, 1988]

I, Phillip C. Johnson, deputy director of programs, do promulgate and adopt at Lacey, Washington, the annexed rules relating to:

- Amd ch. 372-32 WAC Sewage discharge into Lake Washington.
- Amd ch. 372-36 WAC Columbia Basin Irrigation Area—Sewage and waste.
- Amd ch. 372-52 WAC Water districts requests for approvals and certification of necessity to operate sewer districts.
- Amd ch. 372-68 WAC Water pollution control and abatement plans for sewage drainage basins.

This action is taken pursuant to Notice No. WSR 88-10-061 filed with the code reviser on May 4, 1988. 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 43.216.001 [43.21B.001] and chapter 43.21A 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 June 7, 1988.

By Phillip C. Johnson
Deputy Director of Programs

Chapter 372-52 WAC

WATER DISTRICTS REQUESTS FOR APPROVALS AND CERTIFICATIONS OF NECESSITY TO OPERATE SEWER DISTRICTS

WAC

- 372-52-010 Definitions.
- 372-52-020 Purpose.
- 372-52-030 Application content.
- 372-52-040 Notification of interested parties.
- 372-52-050 Criteria for necessity.
- 372-52-060 Decision of (~~(the commission)~~) ecology.
- 372-52-070 Limitation of an approval and a certification of necessity.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-010 DEFINITIONS. For purposes of this chapter, the following definitions are applicable:

(1) (~~(^aCommission^a)~~) "Ecology" shall mean the Washington state (~~(water pollution control commission)~~) department of ecology.

(2) (~~(^aDepartment^a shall mean the Washington state department of health.~~))

(~~(3)~~) "Approval and a certification of necessity" shall mean an order of (~~(the commission)~~) ecology which gives approval to a water district to establish, maintain, construct and operate a sewer system in a proposed service area in accordance with RCW 57.08.065.

~~((4))~~ (3) "Necessity" shall mean a reasonable need and not mean an indispensable need.

~~((5))~~ (4) "Proposed service area" shall mean the area proposed to be served with a sewer system by the applicant water district.

~~((6))~~ (5) "Sewer system" shall mean a system of sewers and appurtenances for the collection, transportation, treatment and disposal of sewage and industrial wastes.

~~((7))~~ (6) "Sewage" shall mean the water-carried waste products or discharge from human beings or other wastes from residences, public or private buildings, or industrial plants, together with such ground, surface or storm waters as may be present.

~~((8))~~ (7) "Industrial wastes" shall mean the liquids, solids, or other wastes resulting from any process of industry, or from the development of any natural resource.

~~((9))~~ (8) "Drainage basin" shall mean a geographic area drained by a surface stream or body of impounded water together with all tributary surface streams and bodies of impounded surface water.

~~((10))~~ (9) "Sewer entities" shall mean any municipal or public corporations which by law are entitled to construct and operate a sewer system.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-020 PURPOSE. This regulation prescribes the procedure whereby a water district organized under the provisions of chapter 57.04 RCW may apply for and receive an approval and a certification of necessity from ~~((the commission))~~ ecology in accordance with the provisions of RCW 57.08.065 in order to exercise powers of a sewer district in accordance with the provisions of Title 56 RCW, as now, or hereafter amended. Additionally, this regulation will define the criteria which ~~((the commission))~~ ecology will consider in determining the eligibility of an applicant water district for an approval and a certification of necessity.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-030 APPLICATION CONTENT. In addition to the requirements of chapter 372-20 WAC, an application for an approval and a certification of necessity must be presented to ~~((the commission))~~ ecology and shall include, but not be limited to, the following considerations:

(1) A general statement of the present and future sewage problems in the proposed area of service.

(2) A consideration of the relationship of the district to contiguous, nearby or overlapping sewer entities.

(3) Service areas considering reasonable drainage basin oriented planning.

(4) Population forecasts as a basis of sewer system design in the proposed service area.

(5) A layout map showing major trunk lines and interceptor lines including the drainage area to be served within and outside of the boundaries of the water district.

(6) The methods of interception and disposal of sewage.

(7) The projected completion time for the sewer system.

(8) An affidavit signed by an officer of the applicant water district, stating that all persons, parties or entities have been given the notice required by WAC 372-52-040.

(9) A summary setting forth the reasons why the applicant water district is better suited to provide a sewer system within the proposed service area than a contiguous or adjacent sewer entity.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-040 NOTIFICATION OF INTERESTED PARTIES. Prior to the submission of an application to ~~((the commission))~~ ecology for an approval and a certification of necessity, an applicant water district shall:

(1) Notify all the contiguous and affected sewer entities in the area in which the water district is proposing to construct and operate a sewer system that the applicant water district will submit an application for an approval and a certification of necessity, and that ~~((the commission))~~ ecology will consider all written comments and objections submitted to ~~((the commission))~~ ecology from any contiguous and affected sewer entity if the same written comments and objections are received by ~~((the commission))~~ ecology before a date which will be specified by ~~((the commission))~~ ecology.

(2) Notify the county commissioners, county health officer, county engineer, county planning commission and the county boundary review board, if any, in the county of the proposed service area, that the applicant water district will submit an application for an approval and certification of necessity and ~~((the commission))~~ ecology will consider all written comments and objections submitted to ~~((the commission))~~ ecology by any of the same if the written comments and objections are received by ~~((the commission))~~ ecology before a date which will be specified by ~~((the commission))~~ ecology.

(3) The dates for inclusion in the notification provided for in ~~((paragraphs))~~ subsections (1) and (2) ~~((hereof))~~ of this section will be furnished by ~~((the commission))~~ ecology upon the request of any applicant water district to ~~((the commission))~~ ecology.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-050 CRITERIA FOR NECESSITY. ~~((The commission))~~ Ecology will issue an approval and a certification of necessity to an applicant water district if all of the following conditions are satisfied:

(1) The granting of an approval and a certification of necessity will eliminate or alleviate an existing or imminent water pollution problem as determined by ~~((the commission))~~ ecology.

(2) A sewer system does not exist in a substantial portion of the proposed service area and no regularly

constituted and established sewer entity intends to construct and operate a sewer system in a substantial portion of the proposed service area within the reasonably foreseeable future.

(3) The proposed service area conforms to any or all established sewage drainage basins designated pursuant to RCW 90.48.270.

(4) The proposed service area conforms to any or all established comprehensive plans for sewage drainage basins, established pursuant to RCW 90.48.280.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-060 DECISION OF ~~((THE COMMISSION))~~ ECOLOGY. After ~~((the commission))~~ ecology has made a decision either granting or denying a request for an approval and a certification of necessity, said decision shall constitute a "contested case" within the meaning of chapter 34.04 RCW and RCW 90.48.230.

AMENDATORY SECTION (Amending Order 68-105, filed 8/21/68, effective 9/21/68)

WAC 372-52-070 LIMITATION OF AN APPROVAL AND A CERTIFICATION OF NECESSITY. The granting of an approval and a certification of necessity by ~~((the commission))~~ ecology shall only constitute approval to establish, maintain, construct, and operate a sewer system within the proposed service area requested in the initial application for an approval and a certification of necessity, and shall in no way constitute approval or authority to establish, maintain, construct and operate a sewer system in any area which may be annexed at some future time by the applicant water district.

The granting of an approval and a certification of necessity by ~~((the commission))~~ ecology does not constitute approval of the engineering report or plans and specifications of any sewer system, and all plans and specifications and the proposed method of operation and maintenance for any sewer system must be approved by ~~((the commission))~~ ecology pursuant to RCW 90.48.110.

AMENDATORY SECTION (Amending Rule .04.019 (part), filed 8/30/61)

WAC 372-32-010 POLICY. . . . It shall, therefore, be the policy of the ~~((pollution control commission))~~ department of ecology to adhere to the following principles in considering for approval plans for sewage treatment plants in Lake Washington drainage basin. In applying this policy, the drainage basin of Lake Sammamish is considered as and accepted to be a part of the drainage basin of Lake Washington.

(1) All sewage shall be treated and all treatment plant effluents must eventually be diverted from Lake Washington and Lake Sammamish to some point or points on Puget Sound.

(2) That all future expansion of existing sewage treatment plants must be designed on the basis of eventual diversion to Puget Sound.

(3) That in the design of future sewer systems and sewage treatment plants where there may be two or more alternate points of discharge available, the one which most closely approaches the ultimate scheme of diversion to Puget Sound shall be the only acceptable one of the alternates.

(4) That if it appears impractical or financially not feasible to select the solution in accordance with subsection (3) ~~((above))~~ of this section, consideration will be given to the next available alternate as a temporary solution only, and conformance to the ultimate scheme of diversion to Puget Sound will be required.

(5) That all properties within reach of existing or proposed collection and treatment facilities designed in conformance with the principles set forth above, shall connect to such facilities.

(6) Such facilities shall be planned to provide capacity for adjacent areas.

AMENDATORY SECTION (Amending Rule .04.241, filed 3/1/60)

WAC 372-36-010 FOREWORD. Residents of the Columbia Basin Irrigation Project Area are, and will continue to be, faced with problems involving the disposal of sanitary sewage and wastes from industry. Since there are no continuous streams in the area, waste material must be disposed of either on land or in reservoirs or in the drains provided for return irrigation water.

Most drains on the upper project area discharge to Moses Lake or Potholes Reservoir which supply some of the irrigation water for the lower area. Other return waters will eventually find their way by various drains and waterways to the Columbia.

There are extensive plans for the recreational development of Moses Lake, Potholes Reservoir and other lakes in the project area.

The preservation of water quality in the surface and ground waters of this project is important since such quality will affect the use of the water for irrigation, recreation and water supply. The quality of the Roosevelt Lake water used for irrigation will undoubtedly be altered in some manner by the leaching action in the soils to which it is applied. This change in quality is sure to affect its subsequent use, but is a change which for the most part is beyond control. Changes in water quality due to sewage and wastes, however, are subject to control and it is imperative that such control be exercised.

In addition to the public health problem, one of the most aggravating problems which is sure to exist in a presently undetermined degree is that of algae growths. These growths will appear in drains, lake and reservoirs in which return water is collected. Soil leachings will provide some of the nutrients for this growth. Sewage and industrial wastes can, if not controlled, substantially add to these nutrients. Algae growths may interfere with the use of the waters for recreation and will substantially increase maintenance on drains, canals, farm laterals, and sprinkler systems.

Another problem involved in the control of wastes discharged to the return water is that of preventing the

discharge of certain material in quantities which will affect the soils or crops to which the water is applied. It is not presently known that such materials will result from industrial developments in the area; however, it is desirable that their presence be anticipated and regulations for their control be applied.

Other problems which should be similarly anticipated are the effects of waste materials on domestic and industrial water supplies. Most of the present supplies are taken from underground sources and further demands for increased supplies will result from the development of the area. In this connection, sanitation is a primary factor, but is not the only consideration. Odors, tastes, color, turbidities and the presence of certain chemical compounds are factors influencing the quality of a water supply. Since sewage and waste disposal must be accomplished in many cases by land surface or subsurface application, the possible effects on ground water supplies require that these methods of disposal be carefully controlled.

In order to provide for the necessary control of the anticipated effects of sewage and waste disposal on water quality in this area, the ~~((pollution control commission, under date of February 19, 1954, has adopted the))~~ following regulations have been adopted. These regulations may be altered from time to time as experience dictates.

Attention is here directed to another set of regulations of ~~((the commission))~~ ecology which apply in this area. These are "Rules and regulations for the submission and approval of plans for the installation of public sewage and industrial waste works and for the operation of such works." ~~((f))~~ (See chapter 372-20 WAC. ~~((f))~~)

AMENDATORY SECTION (Amending Rule .04.241, filed 3/1/60)

WAC 372-36-020 PROMULGATION. The following regulations regarding the discharge of waste products to the canals, drains, wasteways, reservoirs and ground waters of the Columbia Basin Irrigation Project Area and the minimum standards for the treatment and disposal of sewage and industrial wastes in this area are hereby adopted and promulgated ~~((by the Washington pollution control commission on this 19th day of February, 1954))~~.

AMENDATORY SECTION (Amending Rule .04.242, filed 3/1/60)

WAC 372-36-030 DOMESTIC SEWAGE RULES. (1) Municipal and community. (Including school and industrial installations):

(a) The discharge of raw sewage is prohibited under any circumstances.

(b) The discharge of sewage treatment plant effluent into canals used for irrigation or stock watering is prohibited.

(c) The discharge of sewage treatment plant effluent into drains, wasteways, or reservoirs, from which water is subsequently reused in canals and laterals is prohibited, except by specific approval where special circumstances may require such discharge.

(d) The disposal of sewage treatment plant effluent by land application methods is prohibited in locations where such disposal would adversely affect surface or ground water withdrawn for domestic purposes. Discharge at extreme depths is prohibited.

(Note: Rules and regulations of the state board of health prohibit irrigation of certain crops with sewage plant effluent.)

(e) The minimum degree of treatment shall, in any case, be at least the equivalent of primary treatment and disinfection of the effluent.

(f) Additional treatment, of a degree to be determined for each case, shall be provided where specific approval is granted for discharge to drains, wasteways, or reservoirs.

(g) Additional treatment, of a degree to be determined for each case, shall be provided prior to disposal by land application methods when necessary to prevent possible contamination of ground and surface waters, or creation of a nuisance.

(h) Notwithstanding ~~((subsections (a) to (g) above))~~ (a) through (g) of this subsection, the degree of treatment, the provision for disinfection and method of disposal shall be a matter for the determination and approval of the ~~((pollution control commission))~~ department of ecology for each individual case.

(2) Individual farm unit, household or other source of domestic sewage not covered by subsection (1) of this section.

(a) No raw sewage or septic tank effluent shall be discharged to any canal, reservoir, drain or wasteway.

(b) Households, farm units, schools, small business concerns or other sources of domestic sewage involving a limited number of persons shall provide sewage disposal facilities as prescribed by the county health department of the county in which the source is located.

AMENDATORY SECTION (Amending Rule .04.243 (C)(1), filed 3/1/60)

WAC 372-36-060 SPECIFIC REQUIREMENTS OF EACH INDUSTRY—MILK PLANTS. (1) Condenser water, cooling water and ice machine water may be discharged to drains or waterways, but not to canals.

(2) Wastes after proper treatment may be discharged to a drain or wasteway, if such discharge is approved by the ~~((pollution control commission))~~ department of ecology. The preferred methods of disposal of milk waste are:

(a) Small receiving stations or bottling plants—connection to city sewers, or irrigation.

(b) All others—irrigation or treatment by filtration or activated sludge.

(3) Milk waste may be used directly for irrigation under a controlled system whereby no nuisance is caused.

Chapter 372-68 WAC
WATER POLLUTION CONTROL AND ABATE-
MENT PLANS FOR SEWAGE DRAINAGE BA-
SINS

WAC

372-68-010

Authority.

372-68-020

Purpose.

372-68-030	Definitions.
372-68-040	Planning guide.
372-68-050	Procedures for coordination of basin planning.
372-68-060	Outline of minimum plan requirements.
372-68-070	Procedure for plan adoption.
372-68-080	Amendments to the water pollution control and abatement plan.
372-68-090	Relationship of water pollution control and abatement plans for sewage drainage basins to other plans required by ((the commission)) <u>ecology</u> for public sewage and industrial waste works.
372-68-100	Sewage drainage basin delineation.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-010 AUTHORITY. The state of Washington (~~(water pollution control commission))~~ department of ecology pursuant to RCW 90.48.035, 90.48.270, and 90.48.280 hereby adopts and promulgates these rules and regulations for the development, submission, and adoption of water pollution control and abatement plans for sewage drainage basins.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-020 PURPOSE. The rules and regulations of the (~~(water pollution control commission))~~ department of ecology contained herein set forth the procedures necessary to conform with RCW 90.48.280 and 90.48.290(3). (~~(The commission's))~~ Ecology's review must primarily assure that the plan provisions will give adequate protection to and preservation of present and future water quality as indicated in the water quality standards for interstate and intrastate waters as they now exist or may hereafter be amended.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-030 DEFINITIONS. (1) Basin - See "Sewage drainage basin," (~~(WAC 372-68-030))~~ subsection (17) of this section.

(2) (~~(Commission))~~ Ecology - The state of Washington (~~(water pollution control commission))~~ department of ecology.

(3) Construction plans and specifications - The final engineering design before construction of facilities. Construction plans and specifications shall include, where applicable, sewerage system plans, plans of sewage pumping stations, plans for wastewater treatment facilities, and complete technical specifications for construction as set forth in WAC 372-20-030, 372-20-040, 372-20-060, 372-20-070(2), and 372-20-100(2). Construction plans and specifications shall be prepared according to criteria developed and selected in the preliminary engineering report (~~((WAC 372-68-030))~~ subsection (14) of this section).

(4) Drainage basin - An area from which surface runoff is carried away by a single drainage system. (~~(The commission))~~ Ecology has delineated sewage drainage basins as defined in (~~(WAC 372-68-030))~~ subsection (17) of this section for the purpose of administering this long-range water pollution control and abatement planning program.

(5) Industrial wastes - The liquid, solid, or other wastes from industrial processes, as distinct from domestic or sanitary wastes. These wastes may result from any process of industry, manufacture, trade or business, or from the development of any natural resource.

(6) Interceptor or intercepting sewer - A sewer that receives domestic and industrial dry-weather flow from a number of transverse sewers or outlets and frequently additional predetermined quantities of storm water (if from a combined system), and conducts such waters to a point for treatment and disposal.

(7) Interstate waters - The entire stretch within the state of Washington of all rivers, lakes, and other waters that flow across or form a part of the state or international boundaries anywhere along their length, including coastal waters. Coastal waters are further defined as the ocean waters along coasts, straight or indented, which are subject to the ebb and flow of the tides.

(8) Intrastate waters - The surface waters whose drainage basins are solely contained within the boundaries of the state of Washington and are not affected by tidal influence.

(9) Municipal wastewater - Basically domestic sewage but including sewage discharging from sanitary conveniences of office buildings, factories and institutions, and such industrial wastes as may be allowed by the municipal code.

(10) Planning agency - That organization approved or designated by (~~(the commission))~~ ecology which has the responsibility and authority for preparing the basin plans as specified in WAC 372-68-060 and which will, where possible, implement the approved plans through its authority to finance, construct, and operate the necessary facilities.

(11) Planning area - A sewage drainage basin (~~((WAC 372-68-030))~~ subsection (17) of this section) or combinations thereof which have close geographic, political, or social ties.

(12) Planning guide - The document which specifies in detail the recommended and required content of a water pollution control and abatement plan for a sewage drainage basin. See WAC 372-68-040.

(13) Planning level - That point in the anticipated community growth for which needs and solutions are determined. Planning levels of either the present, 1980, 1990, and 2000 or the present, 1985, and 2000 are recommended.

(14) Preliminary engineering report - A thorough engineering study which develops a sound and economical plan for a particular sewerage and/or treatment facility project (or projects), provides methods of operation and maintenance of such facility, and sets forth the water quality and design criteria to be used in the preparation of construction plans and specifications according to WAC 372-20-005, 372-20-030, 372-20-040, 372-20-

060, 372-20-070(1), and 372-20-100(1). Such preliminary engineering report should be developed within the framework of the water pollution control and abatement plan for that sewage drainage basin in which it is located.

(15) Service area – That area which is or can be served by a sewerage system. Future service areas should be determined according to population density and need with consideration being given to the basin approach.

(16) Sewage – See "Wastewater," (~~WAC 372-68-030~~) subsection (20) of this section.

(17) Sewage drainage basin – These basins are adopted under WAC 372-68-100. The boundaries of the basins are as shown on the attached map.

(18) Sewage drainage basin plan – See "Water pollution control and abatement plan for sewage drainage basins," (~~WAC 372-68-030~~) subsection (21) of this section.

(19) Sewer – A pipe or conduit that carries wastewater or drainage water.

(20) Wastewater – The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and storm water that may be present.

(21) Water pollution control and abatement plan for a sewage drainage basin – A plan which describes a drainage basin or portions thereof and provides for control and abatement of water pollution and the protection of water quality in such basin by a logical interim and long-range plan for approximately (~~30~~) thirty years into the future. Such plans shall be developed according to WAC 372-68-060.

(22) Water resource inventory area (WRIA) – See "Sewage drainage basin," (~~WAC 372-68-030~~) subsection (17) of this section.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-040 PLANNING GUIDE. The "Sewage drainage basin and urban area planning guide for water pollution control and abatement" contains recommendations and suggestions with respect to the development of such plans and is hereby approved by the state of Washington (~~water pollution control commission~~) department of ecology. This guide should be used as the basis for the preparation of all water pollution control and abatement plans. Recent developments in the field of water quality should be incorporated into this guide.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-050 PROCEDURES FOR COORDINATION OF BASIN PLANNING. (1) A plan will be prepared for each basin by the planning agencies having authority within that basin. Each agency will plan only for that area for which it has authority or for other areas by agreement.

(2) Within each basin a single agency or committee will be responsible for coordination of the water pollution control and abatement planning efforts. Where possible, such agency or committee will also be responsible for the preparation and implementation of the water pollution control and abatement plan.

(3) To facilitate covering a logical planning area, a single agency may be made responsible for more than one basin.

(4) A single planning document may be proposed in which more than one basin is included, providing the basins are clearly designated.

(5) Any municipality may prepare and submit a separate service area plan through the basin plan coordinating agency or committee to (~~the commission~~) ecology.

(6) The basin plan-coordinating agency or committee should be agreed upon by, but not limited to, (~~the commission~~) ecology and county, municipal, metropolitan, regional and special purpose agencies having authority within the basin.

(7) Such agreement will be formalized by contract as provided for in chapter 39.34 RCW, the Interlocal Cooperation Act, when legally possible.

(8) (~~The commission~~) Ecology shall assume the responsibility for preparation and coordination of the sewage drainage basin plans or will designate a plan-coordinating agency from among those agencies having jurisdiction within the basin.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-060 OUTLINE OF MINIMUM PLAN REQUIREMENTS. The water pollution control and abatement plan shall include but not be limited to:

(1) Introduction (includes statement of purpose and intent, acknowledgments, summary of findings, and base map).

(2) Basis for planning

(a) Physical environment

(i) Topography – general description

(ii) Soil and drainage characteristics – adequate interpretation of soil types and surface grades to determine suitability for septic tank filter fields

(iii) Hydrology – a brief summary of stream discharge records to include maximum, mean and minimum annual flows and 7-day 10-year low-flow; areas where low-flow establishment is needed; where applicable, a brief summary of information pertaining to the water table and flood plains (100 year floods)

(iv) Water quality – a brief summary of available water quality data; classification by interstate and intrastate water quality standards

(v) This section is to include maps of topography, soil and drainage characteristics, flood plains, watercourse classification and water quality problem areas, and location of sampling stations for quantity and quality.

(b) Social and economic growth

(i) Economy – to include a brief summary of commerce and industrial development

(ii) Population – to include trends, projections, and population densities based on census tracts or their equivalent for each planning level

(iii) Land use and zoning – based on (i) and (ii) above summarize existing and projected zoning and land use for each planning level

(iv) This section is to include maps of present and future land use and population densities

(3) Inventory of existing facilities and sources and characteristics of wastes

(a) Collection systems – to include the delineation of service areas, operating authorities, the general location and capacities of interceptors, adequacy of facilities, population served, industries served, major commercial complexes served, and combined storm-sanitary sewers; also to include the numbers and general locations of individual waste disposal facilities.

(b) Treatment facilities – to include, for municipal treatment plants and industrial wastewater discharges, locations of treatment facilities, volumes and characteristics of wastes treated, degree of treatment, and adequacy of facilities; also for municipal treatment facilities the operating authority should be specified.

(c) Other water quality considerations – to include discussion and location of other water quality effect sources including but not limited to:

- (i) Municipal wastes
- (ii) Industrial wastes
- (iii) Individual sanitary discharges
- (iv) Storm runoff
- (v) Soil erosion and land development runoff
- (vi) Agricultural waste water, including irrigation return flow and animal feedlot wastes
- (vii) Wastes from vessels and marinas
- (viii) River impoundments
- (ix) Log storage, including cold decking and rafting
- (x) Dredging and dredging spoils
- (xi) Solid waste disposal runoff and seepage water

(d) This section to include maps showing the general location of service areas and interceptors, municipal and industrial treatment facilities, and "other" water quality problem areas.

(4) Present and future water pollution control needs

(a) Collection systems – to include specification of immediate needs and, for each future planning level, delineation of service areas, operating authorities, general location and capacities of interceptors, population, industries, and major commercial complexes served, combined storm-sanitary sewers to be replaced by separate sewers, approximate number of connections, and percent of homes within the service area to be served.

(b) Treatment plants – to include specification of immediate needs, and for each future planning level, general location of treatment facilities, volumes and characteristics of wastes treated, and degree of treatment for municipal and industrial wastewater discharges; also for municipal treatment facilities the operating authority should be specified.

(c) Other water quality considerations – to include means of alleviating other water quality problems which now exist and to prevent such deleterious effects in the future.

(d) Recommended legal considerations – list and explain policy statements, ordinances, and legislation to prevent future water quality deterioration.

(e) This section is to include maps showing future service areas, general locations and capacities of interceptors and municipal and industrial treatment plants, and "other" water quality problem areas.

(5) Plan considerations

(a) Collection systems and treatment plants – to include factors not included in the previous section which would affect the logical and orderly implementation of the plan. Such factors should include interim and alternate measures and the criteria to govern the extension of sewer lines.

(b) Other water quality considerations – to include consideration of other phases of environmental quality such as water supply, solid wastes management, and air pollution as they might be affected by the water pollution control and abatement plan.

(6) Capital improvements program

(a) Approximate construction schedule – to include scheduling of immediate need items including those listed in the implementation and enforcement plans for interstate and intrastate waters and for ten years beyond the plan completion date.

(b) Cost estimates and financing – to include general construction costs of the various elements of the plan and a brief evaluation of the sewer service charges and financial considerations necessary to finance needed construction.

(7) Format and updating

(a) This outline is not necessarily meant to be used as a pattern for the plan format. Provisions to review this plan every five years or more often as development warrants and to update as necessary will be included.

(b) (~~The commission~~) Ecology will designate, prior to August 1, 1970, which state, regional and/or federal documents should be used as references in forecasting social and economic trends. Such documents will include, but not be limited to, resource development, land use proposals, demographic data, industrial growth, and financial forecast documents.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-070 PROCEDURE FOR PLAN ADOPTION. (1) Two copies of said water pollution control and abatement plan will be submitted to (~~the commission~~) ecology for review. Within thirty days of receipt (~~the commission~~) ecology will approve or reject said plan in writing. Upon (~~commission~~) ecology approval a public hearing will be scheduled for a date within thirty days of said approval. This hearing will be preceded by the appropriate notices as set forth in RCW 42.32.010. Such hearing may be continued from time to time, and at the termination thereof, (~~the commission~~) ecology may reject the plan proposed or adopt it with such modifications as it shall deem proper. Said adoption will take place within sixty days of the termination of the hearing. One copy of the water pollution control and abatement plan adopted by (~~the commission~~) ecology will be stamped with the approval stamp of (~~the commission~~) ecology and returned to the agency which submitted said plan with instructions to notify all involved entities within (~~15~~) fifteen days.

~~((4) The commission))~~ (2) Ecology will consider for adoption plans for sub-areas within a basin if it shall deem such adoption desirable or necessary to prevent undue delay in the construction of urgently needed water pollution control facilities. In all such cases the sub-area plan should be developed according to WAC 372-68-060 and should be submitted through the basin plan-coordinating agency if possible.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-080 AMENDMENTS TO THE WATER POLLUTION CONTROL AND ABATEMENT PLAN. After a plan has been adopted, occasions may arise when a change in certain parts of the plan provisions is necessary. Proposed deviations from the adopted water pollution control and abatement plan which affect the adequacy and efficiency of plan provisions shall be submitted to ~~((the commission))~~ ecology in duplicate. Such amendments will then follow the review, hearing, and adoption sequence specified in WAC 372-68-070.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-090 RELATIONSHIP OF WATER POLLUTION CONTROL AND ABATEMENT PLANS FOR SEWAGE DRAINAGE BASINS TO OTHER PLANS REQUIRED BY ~~((THE COMMISSION))~~ ECOLOGY FOR PUBLIC SEWAGE AND INDUSTRIAL WASTE WORKS. (1) ~~((The water pollution control commission))~~ Ecology recognizes three basic phases of planning:

(a) Water pollution control and abatement plan (for sewage drainage basins)

(b) Preliminary engineering report

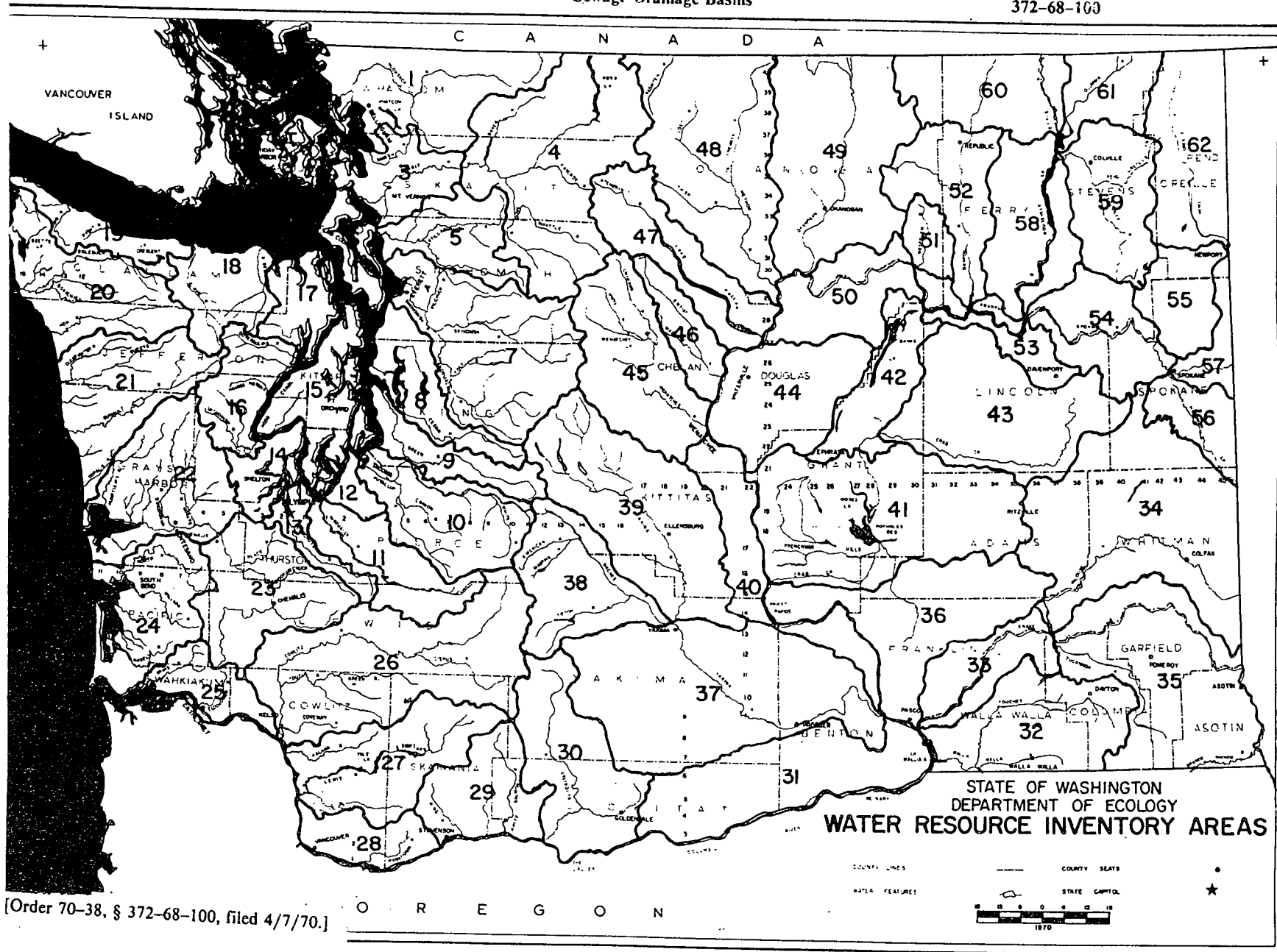
(c) Construction plans and specifications

(2) These phases are defined as given in WAC 372-68-030. The water pollution control and abatement plan, which covers all water pollution sources, is wider in scope than the other two phases, which deal primarily with the design and construction of wastewater collection and treatment works. The last two phases are progressively more detailed than is the water pollution control and abatement plan. Preliminary engineering reports for proposed wastewater collection and/or treatment facilities must comply with the water pollution control and abatement plan for the sewage drainage basin in which they are located. Construction plans and specifications for a proposed facility must comply with the preliminary engineering report for that facility.

(3) It is acceptable to combine the other phases of planning for proposed water pollution control facilities with the water pollution control and abatement plan subject to limitations as specified in WAC 372-20-030. Such a combined plan will receive as many certifications of approval as the phases of planning which it satisfied.

AMENDATORY SECTION (Amending Order 70-38, filed 4/7/70)

WAC 372-68-100 SEWAGE DRAINAGE BASIN DELINEATION. ~~((The commission))~~ Ecology, pursuant to RCW 90.48.270 hereby adopts as sewage drainage basins the water resource inventory areas delineated as shown.



[85]

[Order 70-38, § 372-68-100, filed 4/7/70.]

WSR 88-13-030

NOTICE OF PUBLIC MEETINGS

**DEPARTMENT OF COMMUNITY DEVELOPMENT
(Public Works Board)**

[Memorandum—June 8, 1988]

The Public Works Board will hold the next regular meeting beginning at 8:30 a.m. on Tuesday, August 2, 1988, Red Lion Inn, 18740 Pacific Highway South, Seattle, (206) 246-8600.

The Public Works Board will hold a regular meeting on Tuesday, September 6, 1988, beginning at 8:30 a.m., Red Lion Inn, 18740 Pacific Highway South, Seattle, (206) 246-8600.

The next regular meeting of the Public Works Board will be held on Tuesday, September 20, 1988, beginning at 8:30 a.m., Red Lion Inn, 18740 Pacific Highway South, Seattle, (206) 246-8600.

WSR 88-13-031

PROPOSED RULES

**UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed June 8, 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 480-120-028. The proposed new section is shown below as Appendix A, Cause No. U-87-963-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new section 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, July 27, 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 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.36.300(3).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 22, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-07-069 filed with the code reviser's office on March 18, 1988.

Dated: June 8, 1988

By: Paul Curl

Acting Secretary

APPENDIX "A"

NEW SECTION

WAC 480-120-028 INTRALATA ACCESS DISCOUNTS. (1)
All local exchange companies which maintain one or more end offices

where Feature Group D service is available, shall file intraLATA access tariffs which provide a discount as provided in this section. The discount shall be applicable to originating intraLATA usage associated with end offices which have been converted to Feature Group D service, where 1+ dialing is available on an interLATA basis, but intraLATA 1+ dialing is available only to the designated intraLATA toll carrier. (See Eighteenth Supplemental Order in Cause No. U-85-23 et al.) The discount shall not be available to the designated intraLATA toll carrier.

(2) In end offices that have not been converted to Feature Group D capabilities, Feature Group A and B rates for access minutes of use shall be maintained at a level fifty percent less than the nondiscounted Feature Group D rates.

WSR 88-13-032

PROPOSED RULES

**UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed June 8, 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 discontinuance of service by telecommunications companies, WAC 480-120-081. The proposed amendatory section is shown below as Appendix A, Cause No. U-88-2041-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment 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, August 24, 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 formal decision regarding adoption, amendment, or repeal of the rules will take place on September 7, 1988.

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.36.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 5, 1988.

Dated: June 8, 1988

By: Paul Curl

Acting Secretary

STATEMENT OR PURPOSE

In the matter of amending WAC 480-120-081 relating to discontinuance of service by telecommunications companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.04.160 which direct that the commission has authority to implement the provisions of chapter 81.36 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to enumerate the circumstances in which telecommunication services be discontinued, and prohibiting discontinuance of local exchange service for nonpayment of toll charges.

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 and 80.04.160.

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-233, Cause No. U-85-35, filed 8/23/85)

WAC 480-120-081 DISCONTINUANCE OF SERVICE. (1) By subscriber - a subscriber shall be required to give notice to the utility of his intention to discontinue service.

(2) By utility - 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, the bill may be considered delinquent.

(b) For tampering with the utility's property.

(c) In case of vacation of the premises by subscriber.

(d) For nonpayment of any proper charges including deposit, as provided in the tariff of the utility. Nonpayment of charges billed by the utility on behalf of information providers shall not be grounds for discontinuance of service in whole or in part. Nonpayment of toll charges shall not be grounds for discontinuance of local service.

(e) For violation of rules, service agreements, or filed tariff(s).

(f) For use of subscriber equipment which adversely affects the utility's service to its other subscribers.

(g) 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 subscriber 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 subscriber or other person of civil or criminal responsibility.

(h) For unlawful use of service or use of service for unlawful purposes.

(3) A subscriber's service shall be treated as continuing through a change in location from one premises to another within the same service area if a request for service at the new premises is made prior to disconnection of service at the old premises and service is not subject to termination for cause. A subscriber shall be entitled to the same type of service at the new premises unless precluded by the tariff of the company.

(4) 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) Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the subscriber in person or by

telephone to advise the subscriber of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach the subscriber by telephone during reasonable hours shall be made. If a business or message telephone is provided by the subscriber, the utility shall endeavor by that means to reach the subscriber if unable to make contact through the subscriber'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 below. Telephone or personal contact need not be attempted when (i) the company has had cause in any two previous billing periods during a consecutive twelve month period to attempt such contact; and (ii) the company has notified the subscriber in writing that such telephone or personal contact will not be attempted in the future before effecting disconnection of services.

(b) Each utility shall provide, subsequent to a subscriber's account becoming delinquent, written notice of disconnection served on the subscriber either by mail or, at its option, by personal delivery of the notice to the subscriber's address. 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 subscriber. 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.

All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the subscriber can make contact with the utility to resolve any differences.

(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 subscriber's account. When disconnection is not effected due to such payment 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 the utility has reasonable grounds to believe service is to other than the subscriber of record, the utility shall undertake 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 business 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 secretary, Washington state department of social and health services, as well as to the subscriber. Upon request from the secretary 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 totally disconnected while a subscriber is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The subscriber shall be so informed by the utility upon referral of a complaint to a utility supervisor or the commission.

(h) Where a subscriber's toll charges substantially exceed the amount of any deposit or customary utilization, and where it appears the subscriber will incur excessive, uncollectible toll charges while an appeal is being pursued, the utility may, upon authorization from the commission, disconnect service. A subscriber whose service is so eligible for disconnection may maintain service pending resolution of any

dispute upon payment of outstanding toll charges subject to refund if the dispute is resolved in the subscriber's favor.

(5) Payment of any delinquent amount to a designated payment agency of the utility shall constitute payment to the utility, if the subscriber informs the utility of such payment and the utility verifies such payment.

(6) Service shall be restored when the causes of discontinuance have been removed and when payment or satisfactory arrangements for payment of all proper charges due from the applicant, 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 the subscriber or applicant over the propriety of disconnection.

(7) 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.

When service is discontinued for nonpayment of a bill it may be either completely or partially disconnected. Partial disconnection means telephone service will be restricted to ((either)) incoming service, or outgoing service, or toll restricted. When technical conditions permit, partial disconnection also allows for access being restricted to individual interexchange carriers, upon request of that carrier as a result of a subscriber's failure to pay appropriate charges. In case of a partial disconnection, the subscriber shall be notified of the restricted usage. Upon any complete disconnection of telephone service to a subscriber, charges for service will be discontinued as of the date of the disconnection.

WSR 88-13-033

EMERGENCY RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Order R-286, Cause No. TCH-2189—Filed June 8, 1988]

In the matter of amending WAC 480-40-010, 480-40-020, 480-40-030, 480-40-040, 480-40-050, 480-40-060, 480-40-070 and 480-40-075; repealing WAC 480-40-033, 480-40-036, 480-40-039, 480-40-080 and 480-40-090; and adopting WAC 480-40-110, 480-40-120, 480-40-130 and 480-40-140.

The Washington Utilities and Transportation Commission finds 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 the public interest. A statement of the facts constituting such emergency is the 1988 legislature repealed, amended, and adopted new provisions which had the effect of detariffing charter party carriers of passengers, eliminating the standard of public convenience and necessity for entry but requiring an applicant to be fit, willing, and able to perform the service as well as establishing safety, fitness, and proof of financial responsibility. There were no grandfather provisions in the legislative enactment and since the act becomes effective on June 9, 1988, new rules are required to establish a continuity in the charter party carrier of passengers service subsequent to this date.

This rule-making proceeding is being promulgated pursuant to RCW 80.01.040 and section 7, chapter 30, Laws of 1988.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW),

the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

This amendment to WAC 480-40-010, 480-40-020, 480-40-030, 480-40-040, 480-40-050, 480-40-060, 480-40-070 and 480-40-075; repealing WAC 480-40-033, 480-40-036, 480-40-039, 480-40-080 and 480-40-090; and adopting WAC 480-40-110, 480-40-120, 480-40-130 and 480-40-140 affects no economic values.

In reviewing the entire record herein, it has been determined that the above sections should be amended, repealed, and adopted as indicated and as set forth in Appendix A shown below and made a part hereof by this reference. The amendment, adoption, and repeal of these sections will detariff charter party carriers of passengers, change the standards for entry but require safety, fitness, and proof of minimum financial responsibility.

ORDER

WHEREFORE, IT IS ORDERED That the amendment of WAC 480-40-010, 480-40-020, 480-40-030, 480-40-040, 480-40-050, 480-40-060, 480-40-070 and 480-40-075; the repealing of WAC 480-40-033, 480-40-036, 480-40-039, 480-40-080 and 480-40-090; and the adoption of WAC 480-40-110, 480-40-120, 480-40-130 and 480-40-140 as set forth in Appendix A, take effect as emergency rules of the Washington Utilities and Transportation Commission pursuant to RCW 34.04.030 and 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 8th day of June, 1988.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman

A. J. Pardini,
Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-72, filed 4/23/75)

WAC 480-40-010 DEFINITIONS. (1) Unless the language or context indicates that a different meaning is intended, the following words, terms, and phrases shall, for the purpose of these regulations, be given the meaning hereinafter subjoined to them:

(2) The word "state" means the state of Washington.

(3) The word "commission" means the Washington utilities and transportation commission.

(4) "Person or persons" means an individual, a corporation, association, joint stock association, and partnership, their lessees, trustees or receivers.

(5) "Public highway" includes every public street, road or highway in this state.

(6) "Motor vehicle" means every self-propelled vehicle with seating capacity for seven or more persons excluding the driver.

(7) Subject to the exclusions of RCW 81.70.030, "charter party carrier of passengers" means every person engaged in the transportation of ~~((persons by motor vehicle for compensation whether in common or contract carriage over any public highway in this state.~~

(8) The term "charter party," as used in these regulations means a group of persons who, pursuant to a common purpose and under a single contract, and at a fixed charge for the vehicle have acquired the exclusive use of passenger-carrying motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(9) "Accommodations" as used herein means either

(a) Registered additional seats which the charter party may desire in excess of the number necessary for the party for extra convenience or comfort of the party, or

(b) Registered additional number of seats (either left in the charter coaches, or removed at the charter party's request) for the storage of baggage or other paraphernalia being carried in the custody of the party.

(10) "Charter coach." A motor vehicle assigned to the exclusive use of a party or person.

(11) "Charter trip or charter movement." Transportation furnished by a carrier in a charter coach authorized herein, beginning at the time and place for which the charter coach is ordered and ending at the place of destination.

(12) As used herein, "hour" is each sixty minutes, or any portion thereof, beginning at the time the charter coach is ordered to be at the place of origin and ending at the time the charter coach is finally released by the charter party.

(13) As used herein, a "day" is each twenty-four hours, beginning at the time the charter coach is ordered to be at the place of origin and ending at the time the charter coach is finally released by the charter party.

(14) "Applicable equipment points." On any particular charter movement, the equipment point nearest the place of origin shall be the applicable equipment point for vehicles utilized up to the total number of vehicles held out to be available at that point, the equipment point next nearest the place of origin shall then become the applicable equipment point for the remainder of such vehicles utilized up to the total number of such vehicles held out to be available at that point, thereafter, progressively more distant equipment points shall, in turn, become applicable equipment points up to the number of such vehicles held out at each, until sufficient equipment has been provided for the entire charter movement.

(15) "Equipment point." Equipment point, as used in a tariff, means a place specifically named by a carrier as a point at which vehicles are held out to be available for charter movements.

(16) "Live mileage or live miles." Live mileage, as used herein, means the mileage traversed by a charter coach between the place of origin and the place of destination. After the charter coach has departed from the

place of origin, any mileage involved in the servicing of equipment shall not be included as deadhead mileage.

(17) "Place of origin." The term "place of origin," as used herein, means the place where the charter party orders the charter coach to be at the start of the charter trip.

(18) "Place of destination." The term "place of destination," as used herein, means the place where the charter coach is vacated and released by the charter party. PROVIDED, That no deadhead mileage will be charged for movements within the city limits of an incorporated city when such is designated as an equipment point.

(19) "Waiting time." Any period of time in excess of one-half hour during which the charter coach is not in motion, at the request, with the consent, or for the convenience of the charter party. PROVIDED, That waiting time does not include normal rest stops, meal stops, or layover time for repairs)) a group of persons who, pursuant to a common purpose and under a single contract, have acquired the use of a motor bus to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(8) This chapter does not apply to:

(a) Persons operating motor vehicles wholly within the limits of incorporated cities;

(b) Persons or their lessees, receivers, or trustees insofar as they own, control, operate, or manage taxicabs, hotel buses or school buses, when operated as such;

(c) Passenger vehicles carrying passengers on a non-commercial enterprise basis;

(d) Operators of charter boats operating on waters within or bordering this state.

AMENDATORY SECTION (Amending Order R-12, filed 11/28/69)

WAC 480-40-020 LICENSES. ~~((+))~~ No motor vehicle shall be operated upon the public highways of this state by any charter party carrier of passengers until the owner or person lawfully in control thereof shall have complied with the laws of this state pertaining to motor vehicle licenses and the rules and regulations of the commission governing the operation of motor vehicles upon the public highways.

AMENDATORY SECTION (Amending Order R-61, filed 12/19/73)

WAC 480-40-030 CERTIFICATES. (1) No ~~((charter party carrier shall operate, establish, or begin operation for the purpose of transporting persons on the))~~ person may operate, establish, or engage in the business of a charter party carrier of persons over any public highway((s-of)) in this state, without first having obtained a certificate from the commission.

(2) No certificate will be issued to persons operating under a trade name, unless a certificate of said trade name is filed in accordance with the provisions of chapter 19.80 RCW, and a certified copy thereof filed with the commission.

(3) Certificates must be kept on file at the main office of the owner except when directed to be transmitted to the commission, and shall be subject at all times to inspection by the authorized representatives of the commission.

(4) Any certificate to operate a motor propelled vehicle for the transportation of persons for compensation obtained upon any application by any false affidavit or representation shall be subject to revocation and cancellation by the commission.

(5)(a) No certificate nor any right thereunder ~~((shall))~~ may be leased, assigned, or otherwise transferred or encumbered unless authorized by the commission. Requests for such authority shall be on forms to be furnished by the commission, giving all information therein requested, sworn to before a notary and accompanied by filing fee named in ~~((WAC 480-40-030(9)))~~ subsection (7) of this section.

(b) No charter party certificate or right to conduct any of the service therein authorized shall be leased, assigned or otherwise transferred except in its entirety unless the portion thereof not to be leased, assigned, or otherwise transferred is to be immediately cancelled ~~((: PROVIDED, HOWEVER, short term leases under portions of such certificates in the nature of operating agreements, may be approved upon a showing that the same are in the public interest))~~.

(6) ~~(a)~~ All applications for original certificates (including extensions of certificates, ~~((temporary certificates, renewal or reinstatements of certificates))~~) shall be on forms to be furnished by the commission, giving all information therein requested, sworn to before a notary and accompanied by application fee named in ~~((WAC 480-40-030(9)))~~ subsection (7) of this section.

~~((7))~~ All holders of certificates shall file, after May 15, and not after June 15 of each year, an application for renewal of the certificate. If such filing is made after June 15 the application shall be considered as an application for reinstatement, and the certificate shall expire at the close of June 30 and operations thereunder shall cease and may not be resumed unless and until reinstatement is ordered by the commission. Certificates issued prior to July 1, 1969 under the 1969 amendments to chapter 81.70 RCW, shall expire or be subject to renewal at the close of June 30, 1970. Except as provided above all certificates will expire each year at the close of June 30.

~~(8)~~ An application for a temporary certificate shall be filed separately from an application for certificate, extension or reinstatement, and shall be accompanied by the required fee, EXCEPT, That when applications for an original certificate have been filed on or before June 11, 1969, or when applications for renewal have been filed on or before June 15 of any given year, and the commission is unable to dispose of said original application by June 11, 1969, or a renewal application on or before June 30 of a given year, the commission may, at its discretion, grant all or a portion of the application on a temporary basis without the filing of an additional application and the payment of additional fee.

~~(9))~~ (b) A certificate shall be issued to any qualified applicant authorizing, in whole or in part, the operations covered by the application if it is found that the applicant is fit, willing, and able to perform properly the service and to conform to the provisions of the laws governing charter party carriers of passengers and the rules and regulations of the commission.

(c) Before a certificate is issued, the commission shall require the applicant to meet certain safety requirements and show proof of minimum financial responsibility as set forth in this chapter.

(7) Miscellaneous fees:

Original application for certificate . . .	\$(200.00)
	150.00
Application for extension of certificate	((200.00))
	150.00
((Application for temporary certificate	35.00
Application for renewal or reinstatement of certificate	25.00))
Application to lease, assign, or otherwise transfer or ((otherwise)) encumber a certificate	150.00
Application for issuance of duplicate certificate	((3.00))
	5.00

~~((10))~~ (8) All applications for the issuance of a duplicate certificate must be accompanied by affidavit of the holder thereof setting forth that the original certificate has been lost or destroyed.

(9) The commission may cancel, revoke, or suspend any certificate issued under this chapter on any of the following grounds:

(a) The violation of any of the provisions of chapter 81.70 RCW;

(b) The violation of an order, decision, rule, regulation, or requirement established by the commission pursuant to the law governing charter party carriers of passengers;

(c) Failure of a charter party carrier of passengers to pay a fine imposed on the carrier within the time required by law;

(d) Failure of a charter party carrier to maintain required insurance coverage in full force and effect; or

(e) Failure of the certificate holder to operate and perform reasonable service.

(10) After the cancellation or revocation of a certificate, or during the period of its suspension, it is unlawful for a charter party carrier of passengers to conduct any operations as such a carrier.

(11) Whenever an order is entered by the commission cancelling or revoking a previous order granting a certificate or cancelling or revoking a certificate already issued ((or denying renewal of a certificate, or whenever a certificate has expired without being renewed)), and subsequently an application is made ((for reinstatement of such order or certificate)), such application shall be filed in the manner required as for ~~((renewal of a certificate together with all additional information as will support reinstatement))~~ the original.

(12) Remittances shall be made by money order, bank draft, or check, made payable to the Washington utilities and transportation commission.

AMENDATORY SECTION (Amending Order R-110, filed 10/19/77)

WAC 480-40-040 LIABILITY AND PROPERTY DAMAGE INSURANCE. (1) Within ten days after the date of the order granting an application for certificate, and before such certificate shall issue, the applicant shall file with the commission, evidence of liability and property damage insurance having been written by a company authorized to write such insurance in the state of Washington covering each motor vehicle used or to be used by such applicant in the following sums:

(1) Passenger seating capacity	16 or less	17 or more
(2) Minimum amount for bodily injuries to ((or death of)) one person.	\$100,000	\$100,000
(3) Minimum amount for bodily injuries to ((or death of)) all persons injured ((or killed)) in any one accident ((subject to a maximum of not less than \$100,000 for bodily injuries to or death of one person))	\$300,000	\$500,000
(4) Minimum amount for loss or damage in any one accident to property of others.	\$ 50,000	\$ 50,000

Failure to file and keep such insurance in full force and effect shall be cause for dismissal of an application or cancellation of a certificate.

(2) Evidence of insurance shall be submitted on a "uniform motor carrier bodily injury and property damage liability certificate of insurance," filed in triplicate with the commission.

(3) All liability and property damage insurance policies issued to charter party carriers of passengers shall carry a "uniform motor carrier bodily injury and property damage liability endorsement."

AMENDATORY SECTION (Amending Order R-12, filed 11/28/69)

WAC 480-40-050 SELF INSURANCE. (1) Every charter party carrier of passengers which qualifies as a self-insurer under the provisions as set forth in ~~((RCW 81.68.065))~~ section 9, chapter 30, Laws of 1988, may upon proper application to the commission be exempt

from all provisions relative to liability and property damage insurance under the rules and regulations as herein set forth: **PROVIDED, HOWEVER,** That with said application shall be filed a certified copy of the order of the Interstate Commerce Commission showing that the said applicant has qualified under the Interstate Commerce Act as a self-insurer, and a further certification that said company was at the time of the application to the Washington utilities and transportation commission operating under the said self-insuring authority, and that the same is now in full force and effect.

(2) Every charter party carrier qualified and acting under the self-insurer provisions of ~~((RCW 81.68.065))~~ section 9, chapter 30, Laws of 1988, who may thereafter have all rights as self-insurer cancelled by the Interstate Commerce Commission, shall coincidentally upon the effective date of the order cancelling such right, file with the Washington utilities and transportation commission the proper liability and property damage insurance or surety bond as provided for in WAC 480-40-040(1).

AMENDATORY SECTION (Amending Order R-12, filed 11/28/69)

WAC 480-40-060 EQUIPMENT OF MOTOR VEHICLES. (1) Motor vehicles shall be equipped in accordance with existing state laws, and the rules and regulations of the commission.

(2) For the purpose of identification and information of the public, all motor vehicles, including substitute or emergency vehicles, while being operated under certificate, shall have displayed on each side of such vehicle in a conspicuous place and of such size as to be easily discernible at a distance of at least fifty feet, the number of the certificate under which such vehicle is being operated, preceded by the letters W.U.T.C. Thus:

" W.U.T.C.
CH- "

~~((Motor vehicles operating under a Certificate of Public Convenience and Necessity pursuant to chapter 81.68 RCW and thus already displaying a W.U.T.C. number are exempt from this regulation.))~~ In the event a certificate is revoked or cancelled or the equipment sold the carrier shall immediately remove its certificate number from its vehicles.

(3) Motor vehicles used in the transportation of passengers shall have displayed thereon the company name and number of such vehicle printed in letters of sufficient size and so placed as to be easily discernible.

~~((4) ((Each motor vehicle used in the transportation of passengers shall have displayed on the front thereof an appropriate sign indicating such vehicle is being operated in "charter" or "special" service in letters not less than three inches in height.~~

~~((5))~~ All motor vehicles shall be maintained in a safe and sanitary condition and shall be at all times subject to inspection by the commission's duly authorized representatives.

~~((6) All motor vehicles used in the transportation of passengers and having a covered top or top up, shall maintain a light or lights of not less than two candle power each, within the vehicle and so arranged as to~~

~~light up the whole of the interior thereof, except that portion occupied by the driver.~~

~~(7) All motor vehicles used in the transportation of passengers shall be equipped with a standard speedometer or tachometer which shall be maintained in good working order.~~

~~(8) Passenger carrying vehicles shall be equipped with a suitable heating system sufficient to keep the same at a comfortable temperature for its patrons.~~

~~(9) All motor vehicles used in the transportation of passengers shall be equipped with a fire extinguisher of pump or stored pressure type, suitable for attachment to motor vehicles and bearing the label of approval by the Underwriters Laboratories, Incorporated, and shall be kept in good working condition at all times.)~~

AMENDATORY SECTION (Amending Order R-244, Cause No. TV-1913, filed 11/7/85)

WAC 480-40-070 OPERATION OF MOTOR VEHICLES. (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW except:

~~(a) ((The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.~~

~~(b)) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.~~

~~((c)) (b) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.~~

~~(3) ((No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.~~

~~(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.~~

~~(5)) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on~~

January 1, ~~((1985))~~ 1988, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW(~~; except that the radius distance identified in paragraph (f) of section 395.8 shall be one hundred miles~~)).

~~((6) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.~~

~~(7) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto, except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.~~

~~(8))~~ (4) Accidents occurring in this state arising from or in connection with the operations of any charter party carrier of passengers operating under chapter 81.70 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: ~~((1-206-753-6411))~~ 1-206-586-1119. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

~~((9) Charter party carriers transporting passengers shall maintain busses in a clean and sanitary condition and shall make such stops as shall be necessary to care properly for the comfort of their patrons.~~

~~(10))~~ (5) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and ~~((5))~~ (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

AMENDATORY SECTION (Amending Order R-198, Cause No. TCH-1685, filed 2/23/83)

WAC 480-40-075 EQUIPMENT—SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.70 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, excluding

section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto, in effect on January 1, ((+1983)) 1988, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

NEW SECTION

WAC 480-40-110 REGISTERED CARRIERS.

(1) Carriers engaged exclusively in interstate or foreign commerce are declared to be registered carriers. Those operating under authority issued by the Interstate Commerce Commission shall have their registration number prefixed by "CH". Registered carriers need only comply with such rules and regulations as specifically refer to them or to equipment operated exclusively in interstate commerce across or between points in the state and points outside of the state.

(2) By reference, the Washington utilities and transportation commission hereby adopts the rules promulgated by the National Association of Regulatory Utility Commissioners and adopted by the Interstate Commerce Commission under PL 89-170 and codified as Part 1023 of Title 49, Code of Federal Regulations.

(3) Registered carriers may meet insurance requirements by filing with the Washington utilities and transportation commission a certificate of insurance.

NEW SECTION

WAC 480-40-120 REGISTRATION OF INTERSTATE AUTHORITY. (1) It shall be unlawful for any charter party carrier of passengers to perform a transportation service for compensation upon the public highways of this state without first having secured appropriate authority from the Interstate Commerce Commission, if such authority is required, and without first having registered such authority, if any, with the commission.

(2) Such registration shall be granted upon application, without hearing, upon payment of the appropriate filing fee. Applications to register ICC operating authority with the commission shall be accompanied by the fee of twenty-five dollars for charter party carriers of passengers who have not previously filed currently effective applications for such registration.

NEW SECTION

WAC 480-40-130 IDENTIFICATION CARDS.

(1) No motor vehicle operated by a charter party carrier of passengers upon the highways of this state shall be so operated without having available within the vehicle a valid identification cab card properly signed and with appropriate stamp affixed. Such identification card shall be subject to inspection by the commission's representatives at all times.

(2) An application for sufficient number of identification stamps shall be filed with the commission, accompanied by the necessary stamp and regulatory fee. The cost of the stamp shall be three dollars.

(3) The regulatory fee shall be seven dollars. Under section 15, chapter 30, Laws of 1988, the annual regulatory fee shall be established by the commission but not to exceed the cost of supervising and regulating such carriers.

(4) Charter party carriers of passengers engaged exclusively in casual or occasional interstate or foreign commerce across or between points in the state and points outside the state may, as an alternative to all other requirements of this chapter, obtain a single trip transit permit, valid for ten days authorizing one trip, entering or across the state. This permit will be issued upon payment of a fee of ten dollars. The carrier must provide the name and policy number or binder of the insurance company with whom the carrier has insurance which meets the provisions of WAC 480-40-040.

(5) No refund will be made on unused stamps.

(6) Any "lost stamps" will be replaced only at full stamp and regulatory fee: PROVIDED, HOWEVER, That in unusual circumstances the commission may, by order, waive all or a portion of the replacement cost.

(7) Each carrier shall obtain from the Washington utilities and transportation commission or from the National Association of Regulatory Utility Commissioners a sufficient number of blank identification cab cards to satisfy its requirements.

(8) All identification cab cards and stamps issued for a particular calendar year expire January 31 of each succeeding year. However, a stamp may be issued for the ensuing calendar year on or after the first day of October preceding, and may be used from the date of issue.

(9) An identification cab card may be reassigned to a substitute vehicle (power unit) only when the original vehicle has been destroyed or is being permanently withdrawn from the ownership or possession of the permittee.

NEW SECTION

WAC 480-40-140 CARDS—RETURN REQUIRED—LOSS OF; IMPROPER USE OF CARDS OR STAMPS. (1) Upon revocation of a permit or cessation or abandonment of service under a permit, or when equipment is repossessed, the holder thereof shall immediately return to the commission the original permit, together with identification cab cards.

(2) The loss of identification cab cards and/or stamps shall be immediately reported to the commission.

(3) The use of an identification cab card by any person or firm other than the carrier to whom the stamp was issued is unlawful.

(4) The use of an identification cab card without the appropriate stamp firmly affixed is unlawful.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-40-033 EQUIPMENT OPERATED.
 WAC 480-40-036 RECORDS.
 WAC 480-40-039 TARIFFS.
 WAC 480-40-080 FEES AND GROSS OPERATING REVENUE.
 WAC 480-40-090 RULES AND REGULATIONS.

WSR 88-13-034
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed June 8, 1988]

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

Amd WAC 458-30-510 Creation of district—Protest—Final assessment roll.
 Amd WAC 458-30-520 Notification of district—Certification by assessor—Estimate by district.
 Amd WAC 458-30-530 Notification of owner.
 Amd WAC 458-30-540 Waiver.
 Amd WAC 458-30-550 Exemption—Removal.
 Amd WAC 458-30-560 Partial assessment—Computation.
 Amd WAC 458-30-570 Connection subsequent to final assessment roll—Interest—Connection charge.
 Amd WAC 458-30-580 Rate of inflation—When published—Calculation;

that the agency will at 10:00 a.m., Tuesday, July 26, 1988, in the Department of Revenue Office, 6004 Capitol Boulevard, Tumwater, 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 84.08.010(2) and 84.34.141.

The specific statute these rules are intended to implement is chapter 84.34 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 1988.

Dated: June 2, 1988
 By: Linda L. Lethlean
 Acting Assistant Director

STATEMENT OF PURPOSE

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Department of Revenue as follows:

Title: WAC 458-30-510 through 458-30-580, providing for the deferral of special assessments on land

classified as farm and agricultural land under chapter 84.34 RCW.

Purpose: To clarify and expand on WACs adopted March 9, 1987.

Statutory Authority: RCW 84.34.360 requires the Department of Revenue to adopt rules to implement RCW 84.34.300 through 84.34.380.

Summary and Reasons for the Rule: These rules provide for how the special assessments are deferred, the actions of local governments and county assessors, and how assessments are to be calculated when portions of the land are connected to the improvements made by the special assessment.

Drafter of the Rule, Rule Implementation and Enforcement: Clay Hanson, 6004 South Capitol Boulevard, Tumwater, Washington 98501, (206) 753-2100.

Proposer of the Rule: Department of Revenue, Olympia, Washington 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: No federal laws involved.

Small Business Impact: None.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-510 CREATION OF DISTRICT—PROTEST—FINAL ASSESSMENT ROLL. RCW 84.34.320 requires local government officials to take certain steps upon "creation" of a district. This section defines when a district shall be deemed to have been "created."

(1) For districts outside of cities, a district shall be considered created upon its actual adoption at the required hearing.

(2) For districts within cities, creation shall occur thirty days after ((the)) passage of the ordinance ordering the improvement, thereby allowing the protest period set forth in RCW 35.43.180.

(3) For districts within cities, a protest may be filed with the city or town council within thirty days from the date of passage of the ordinance ordering the improvement ((and the)) creation of the district can be prevented by property owners within said district whose combined payments for ((its creation)) the improvements shall be equal to, or ((exceed)) in excess of sixty percent of the cost of the improvement. For all other districts ((the)) their creation ((of the district)) can be prevented by ((the)) opposition of the property owners within ((said district)) whose combined property ownership ((of property)) is equal to or greater than forty percent of the area included in the district.

(4) For those districts ((which)) that have an annual assessment roll hearing((s)) on capital assessments, the final assessment roll will be ((said to be)) considered as "adopted" upon confirmation of the roll at the hearing in the first year.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-520 NOTIFICATION OF DISTRICT—CERTIFICATION BY ASSESSOR—ESTIMATE BY DISTRICT. (1) ((Immediately)) Upon creation of a district, the local government shall immediately notify the county assessor and legislative authority of the county ((in which)) where the district is located of said creation.

(2) Upon receipt of notification ((of the creation of a district,)) that a district has been created the county assessor shall certify in writing to the district ((the status of)) whether or not classified farm and agricultural land is within ((the created district which is classified as farm and agricultural land)) its boundaries.

(a) ((If there is no farm and agricultural land within the district, the county assessor shall certify this to the district.

(b)) If there is ((land within the district classified as farm and agricultural)) the ((county)) assessor shall certify ((which)) what land is ((classified as such)) within by providing parcel numbers and legal descriptions of such property.

((c)) (b) If any owner of land within the created district has timely filed, as of January 1st, an application for current use assessment as farm and agricultural land and no action has been taken ((on it)), the

~~((county))~~ assessor will ~~((indicate to the district))~~ report the status of ~~((that))~~ pending applications to the district and take immediate action to render a decision for its approval or denial. The ~~((county))~~ assessor shall also ~~((indicate to))~~ inform the district that any decision is appealable under RCW 84.34.035, and that the classification as farm and agricultural land would become effective as of the initial filing date, January 1.

~~((d))~~ (c) If the legislature extends the filing date for applying for classification as farm and agricultural land, those applications approved will receive their status as of January 1 of the filing year.

(3) The district, upon receipt of the assessor's certification ~~((above))~~ required by subsection (2) of this section, shall notify the assessor and the legislative authority of:

(a) The extent to which classified lands may be subject to a partial assessment for connection of improvements to the service provided. Said estimate will be based upon WAC 458-30-560.

(b) ~~((The))~~ Confirmation and approval of the special benefit assessment roll. Said confirmation shall include the lands exempted from assessment and the amounts ~~((which))~~ that would have been levied ~~((if))~~ had the land ~~((had))~~ not been exempt.

(4) The assessor shall ~~((provide notice to))~~ notify the district when any exempt farm and agricultural land is removed from classification ~~((as farm and agricultural land))~~.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-530 NOTIFICATION OF OWNER. The county assessor, upon receiving notice of the creation of such a district, shall notify the owner of the farm and agricultural lands as shown on the current assessment rolls. Such notification shall be made on forms approved by the department of revenue and shall contain the following:

(1) Notice of the creation of the district.

(2) Notice of the exemption of that land from special benefit assessments.

(3) Notice that the farm and agricultural land will become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the ~~((local government creating the))~~ district before ~~((the))~~ confirmation of the final special benefit assessment roll.

(4) Notice of potential liability if the exemption is not waived and the land is subsequently withdrawn or removed from the farm and agricultural land ~~((status))~~ classification.

(5) The portion of ~~((his))~~ the land measured as ~~((his))~~ the benefited "residence" as provided in WAC 458-30-560 will be assessed for benefits received.

(6) ~~((If the owner connects))~~ That connection to the system, ~~((he))~~ shall ~~((be liable for the))~~ result in a connection charge.

(7) ~~((If the owner connects))~~ That connection to the system ~~((at a time later than when))~~ subsequent to creating the district ~~((is initially created and assessed, he))~~ and initial assessment will ~~((be))~~ result in being liable for the amounts as calculated in WAC 458-30-570.

(8) The property owner shall have the right of appeal as is guaranteed any other property owner within the district.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-540 WAIVER. (1) The owner of ~~((the))~~ land exempted from special benefit assessments may waive that exemption by filing a notarized statement to that effect with the local government creating the district. Said statement must be filed prior to confirmation of the final special benefit assessment roll.

(2) A copy of said waiver shall be filed by the local government with the county assessor and the county legislative authority, but the failure of such filing shall not affect the waiver.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-550 EXEMPTION—REMOVAL. (1) ~~((f))~~ No further action will be required of the owner of classified farm and agricultural land ~~((classified as farm and agricultural land wishes))~~ who chooses to remain exempt and ~~((pay no assessment for))~~ not connect to the improvements made by ~~((creation of))~~ the district ~~((; it shall require no further action on his part))~~. The status of ~~((his))~~ the property will not change and it will not be included on the assessment roll.

(2) If the owner ~~((of such exempt land chooses))~~ initially chose to remain exempt ~~((and then at some future date his land))~~, but subsequently is removed or withdrawn from ~~((classification as))~~ the farm and agricultural land classification, ~~((he will be subject to))~~ immediate payment ~~((of the amount))~~ shall be required of the total special benefit assessment amount listed in the notice provided for in RCW 84.34.320 in the following manner:

(a) If the bonds used to fund the improvement have not been completely retired ~~((at))~~ when the ~~((time his))~~ land is withdrawn or removed from classification, ~~((he will be liable for))~~ the liability will be:

(i) The amount of the special benefit assessment, plus;

(ii) Interest on that amount, compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity ~~((which created))~~ creating the district to the time the ~~((owner withdraws such land from the exemption category))~~ land is withdrawn or removed from exempt status.

(b) If the bonds used to fund the improvement in the district have been completely retired when ~~((his))~~ the land is withdrawn or removed from classification, ~~((he shall immediately become liable))~~ immediate payment shall be due for:

(i) The amount of the special benefit assessment, plus;

(ii) Interest on that amount compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed to the time the bonds used to fund the improvement have been retired, plus;

(iii) Interest on the total amount of (i) and (ii) at a simple per annum rate equal to the average rate of inflation from the time the bonds used to fund the improvement have been retired to the time the ~~((owner withdraws such land from the exemption category))~~ land is withdrawn or removed from exempt status.

(3) If property is withdrawn or removed from the farm and agricultural land classification ~~((and))~~, but has been partially assessed for connection to a sewer and/or water system, credit shall be given for the amount paid ~~((shall be given))~~ when computing the total liability ~~((for withdrawal))~~.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-560 PARTIAL ASSESSMENT—COMPUTATION. A portion of ~~((land))~~ the exempt classified ~~((as))~~ farm and agricultural land ~~((and therefore usually exempt from special benefit assessments))~~ shall be subject to special benefit assessment if it is actually connected to the domestic water system or sewerage facilities, or for access to a road improvement. The amount of special benefit assessment shall be calculated ~~((in one of the following manners, which ever complies with))~~ by the method used ~~((by))~~ in the district ~~((for assessing))~~ to assess nonexempt property. If ~~((any method has))~~ a district uses more than one ~~((manner))~~ method to calculate the assessment, ~~((the district))~~ it shall use ~~((whichever manner))~~ the one that results in the least cost to ~~((each))~~ the property owner, regardless of the owner's property holdings and/or exempt status. The district shall provide the owner of such property with a written estimate of the partial assessment as determined from the following methods:

(1) Sanitary and/or storm sewerage service or domestic water service.

(a) Square foot method: If the ~~((assessment for the))~~ special benefit assessment is determined on a square footage basis, the assessable portion of the exempt land shall be determined as follows:

Calculate the square footage of the residential area, i.e., the "main dwelling." This area shall include all those facilities normally found on a residential lot such as a garage or carport, driveway, front and back yards, etc. Also included in the area shall be any buildings or facilities ~~((which are))~~ directly benefited by an actual connection to the improvement. (For example: A dairy barn connected to a sewer or water system.)

(b) Front foot method: If the ~~((method of assessment for the))~~ special benefit assessment is determined on a front footage basis, the assessable portion of the exempt land shall be determined ~~((in))~~ by one of the following ~~((manners))~~:

(i) Calculate the square footage for the residential area in the same manner as the square foot method. The square foot measurement of the entire "residence," ~~((including other buildings connected, in square feet))~~ shall then be converted into ~~((an))~~ the area of a ~~((perfect))~~ square. The calculated square will ~~((then))~~ be used as the unit to be charged for the special benefit assessment. One side of the square will be used as front footage~~((;))~~ or

(ii) ~~((Take))~~ Determine the mean (average) front footage of all nonexempt properties within the district, and use ~~((that figure))~~ it to assess the portion of otherwise exempt property for the special benefit assessment, i.e., add ~~((up))~~ all of the nonexempt front footage relevant to the improvement and divide by the number of nonexempt properties within the district.

(c) Zone-termini method: If the ~~((method of assessment for the))~~ special benefit assessment is determined on a zone-termini basis, the assessable portion of the exempt land shall be determined ~~((in))~~ by one of the following ~~((manners))~~:

(i) Convert the square foot area of the residence to a square as in the front foot method. Use this square as the zone for assessing the portion of otherwise exempt property for the special benefit assessment ~~((:))~~; or

(ii) ~~((Take))~~ Calculate the mean (average) width and depth (length) of all nonexempt properties within the district ~~((and use this))~~, using these averages to create a rectangular unit as the zone for assessing the portion of otherwise exempt property for the special benefit assessment. ~~((Example))~~ To perform this calculation:

(A) Add ~~((up))~~ all nonexempt front footage relevant to the improvement and divide by the number of nonexempt properties within the district ~~((This will be the measurement of))~~ to determine the mean width of the zone ~~((:))~~; and

(B) Add ~~((up))~~ the depths (lengths) of all nonexempt properties within the district and divide by the number of nonexempt properties within the district ~~((This will be the measurement of))~~ to determine the mean depth of the zone.

(d) Equivalent residential unit method (ERU): The ERU method shall be used in the same manner as it is used on all other properties within the district. The value to be determined is based on the amount of benefit derived or, when appropriate, the degree of contribution to the service, such as drainage or sewer. This amount shall be measured for all uses of property ~~((:))~~. ~~((For example, if a dairy barn uses a greater amount of water or contributes a greater amount of sewerage than the normal residential unit, it shall be classified as more than one ERU and shall be charged a proportionately greater amount.))~~

(e) Combined methods: In districts ~~((which make))~~ making assessments using a combination of two or more methods ~~((:))~~ e.g., an assessment based on a front footage charge plus ~~((\$.02 per))~~ a square foot charge, the procedures for determining the assessable portion of previously exempt property shall be the same as those ~~((outlined))~~ described above.

(2) Road construction and/or improvements. If the property is provided access to the constructed or improved road, the assessment will be based upon the percentage of current use value to true and fair value as evidenced by the last property tax assessment roll as equalized by the county board of equalization to what the assessment would have been if the owner had waived the exemption ~~((:))~~. ~~((For example, if the current use value is forty-five percent of its true and fair value, then the assessable portion ((shall)) would be forty-five percent of the amount it would have been had the owner waived the exemption.))~~

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-570 CONNECTION SUBSEQUENT TO FINAL ASSESSMENT ROLL—INTEREST—CONNECTION CHARGE.

(1) ~~((If at some date after the assessment roll has been approved))~~ The owner of property ~~((exempt))~~ exempted from special benefit assessments under the current use farm and agricultural land classification ~~((wishes to))~~ who connects to the water and/or sewer systems and/or road improvements provided by ~~((special benefit assessment, he))~~ the district after the assessment roll has been approved will be liable for the foregone assessments as determined by WAC 458-30-560 including interest, but not penalties. In addition ~~((to this amount, he shall make))~~, the annual payment required for ~~((att))~~ each year ~~((s))~~ following the connection shall be made.

(2) In addition to the assessments imposed in subsection (1) of this section, ~~((he))~~ the owner will also be liable for the cost of connection.

AMENDATORY SECTION (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-580 RATE OF INFLATION—WHEN PUBLISHED—CALCULATION. ~~((For))~~ In computing the interest ~~((used for))~~ as required by WAC 458-30-550, upon withdrawal or removal from classification as farm and agricultural land, ~~((as required~~

~~by WAC 458-30-550;))~~ the department of revenue will, each year, publish ~~((each year))~~ an annual ~~((rate of))~~ inflation rate. The rate will be based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. The rate will be published by December 31st of each year and will apply to all withdrawals ~~((which))~~ or removals that occur in the following year. An owner will become liable for the interest from the time ~~((of creation of the district))~~ the district was created to the time of withdrawal or removal. If more than one year is involved, ~~((the rates of inflation published by the department of revenue for all years involved shall be averaged together to find the average annual rate of inflation to be used in calculating the assessment for withdrawal))~~ an annual average inflation rate shall be used to calculate the interest. ~~((This rate will be determined by summing the inflation rates for all years in question and then dividing by the number of years. The interest shall take effect on the date the action ((which warrants)) warranting the charge as provided for in WAC 458-30-550 is taken. Interest for withdrawal or removal will be calculated only for ((only those)) the time (years and months) ((in which)) the property was ((classified as exempt, i.e.)) in exempt status. (For example, if a property was withdrawn July 1, ((1983)) 1987, and the district was created in January 1980, the interest would be calculated using the inflation rates given for 1980 ((, 1981, 1982, and 1983)) through 1987; in the year ((of)) when the withdrawal or removal occurred, the interest would be calculated for ((only)) six months, January ((-July)) through June, ((those months in which)) as the property was ((classified as exempt)) still in exempt status.))~~

WSR 88-13-035
ADOPTED RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
 [Order 311—Filed June 8, 1988]

Be it resolved by the State Wildlife Commission, acting at the Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, that it does adopt the annexed rules relating to:

- New WAC 232-28-810 1988 Mountain goat, sheep, moose, cougar, and lynx hunting seasons.
- Rep WAC 232-28-809 1987 Mountain goat, sheep, and moose hunting seasons.

This action is taken pursuant to Notice No. WSR 88-06-065 filed with the code reviser on March 2, 1988. 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 77.12.040 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 April 7, 1988.

By Dr. James M. Walton
 Chairman, Wildlife Commission

NEW SECTION

WAC 232-28-810 1988 MOUNTAIN GOAT, SHEEP, MOOSE, COUGAR, AND LYNX HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1988 Mountain goat, sheep, moose, cougar, and lynx hunting seasons adopted by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-809 1987 MOUNTAIN, GOAT, SHEEP, AND MOOSE HUNTING SEASONS

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

**WSR 88-13-036
ADOPTED RULES
DEPARTMENT OF ECOLOGY
[Order 88-40—Filed June 8, 1988]**

I, Phillip Johnson, deputy director of the Department of Ecology, do promulgate and adopt at Olympia, Washington, the annexed rules relating to settlement agreement procedures under chapter 70.105B RCW, hazardous waste cleanup.

This action is taken pursuant to Notice No. WSR 88-10-055 filed with the code reviser on May 4, 1988. 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 70.105B RCW which directs that the Department of Ecology has authority to implement the provisions of the Hazardous Waste Cleanup Act, chapter 70.105B 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 June 7, 1988.

By Phillip Johnson
Deputy Director

Chapter 173-340 WAC

HAZARDOUS WASTE CLEANUP SETTLEMENT PROCEDURES

WAC

- 173-340-010 Purpose.
- 173-340-020 Definitions.
- 173-340-030 Emergency actions.
- 173-340-040 Settlement procedures.
- 173-340-050 State conducted remedial action—
Notice.

NEW SECTION

WAC 173-340-010 PURPOSE. These regulations implement RCW 70.105B.070 which requires that the

department provide, by rule, procedures by which potentially liable persons may propose and negotiate settlement agreements for releases or threatened releases of hazardous substances that require remedial action. These regulations provide for public notice and an opportunity to comment on proposed settlements and establish time periods for accomplishment of activities required by RCW 70.105B.070. These regulations are interim and will be amended by final regulations.

NEW SECTION

WAC 173-340-020 DEFINITIONS. (1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or such person authorized to act for the director.

(3) "Final cleanup" means a remedial action which will achieve cleanup levels required by RCW 70.105B.060.

(4) "Potentially liable person" means any person whom the department finds, based upon credible evidence, to be liable under RCW 70.105B.040.

(5) "Remedial action" or "remedy" means any action or expenditure consistent with the purposes of chapter 70.105B RCW to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health. This definition includes, but is not limited to, the remedial investigation/feasibility study and the remedial design/remedial action implementation defined in subsections (6) and (7) of this section.

(6) "Remedial investigation/feasibility study" means:

(a) A remedial investigation to gather the data necessary and sufficient to: Determine the nature and extent of a release or threatened release of a hazardous substance; establish target cleanup levels and monitoring methods; identify remedial action alternatives; and support the technical and cost analyses of the alternatives; and

(b) A feasibility study which includes: An evaluation of the technical, environmental, and economic aspects of alternative remedial actions; a recommendation for the preferred remedial action; and cost estimates and a preliminary construction schedule for the remedial action.

(7) "Remedial design/remedial action implementation" means:

(a) An action where the selected remedy is clearly designed and/or specified in accordance with engineering criteria, for example, site action plan, relocation plan, or engineering drawings and specifications, in a bid package, enabling immediate implementation of the remedy; and

(b) The implementation of a remedial action, normally following design, of the selected source control and/or off-site remedial measure. Remedial action implementation may include, but is not limited to, final cleanup.

NEW SECTION

WAC 173-340-030 EMERGENCY ACTIONS.

(1) The provisions of this chapter shall not apply if the director determines, pursuant to RCW 70.105B.110 and 70.105B.120, that an emergency or imminent danger exists which requires immediate remedial action to protect human health or the environment.

(2) Nothing in this chapter shall be construed to limit the authority of the department, its employees, agents or contractors to take appropriate action in the event of an emergency or imminent danger to human health or the environment.

NEW SECTION

WAC 173-340-040 SETTLEMENT PROCEDURES.

(1) The department encourages persons to investigate and clean up sites for which they are responsible. Any potentially liable person wishing to enter into a settlement with the department for remedial action may request the department to initiate the procedures described in subsections (3) through (9) of this section. The procedures described in subsections (3) through (9) of this section shall not be considered the exclusive procedures for settlement under chapter 70.105B RCW. The department may agree to use alternate procedures consistent with chapter 70.105B RCW which are proposed by potentially liable persons. The alternate procedures must be approved by the director.

(2) Prior to the issuance of special notice letters under this section, the department encourages ongoing discussions and exchanges of information between the department and persons who might be potentially liable regarding those sites which the department has reason to believe may require remedial action.

(3) Special notice letters. When the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, and when the department is prepared to proceed with settlement procedures, it shall issue special notice letters to the potentially liable persons. Special notice letters shall be signed by the director and sent via certified mail, return receipt requested, or by personal service. The department shall not be required to issue special notice letters to potentially liable persons under this chapter if notice letters have been issued prior to the effective date of these regulations.

(4) Contents of special notice letters.

(a) Special notice letters shall include the following:

(i) A statement informing the recipient that the department has identified that person as a potentially liable person under chapter 70.105B RCW or other applicable laws regarding the release of hazardous substances;

(ii) A statement that the department has determined that remedial action will be required to protect human health or the environment;

(iii) Identification of the site where there is a release or threatened release of hazardous substances and, to the extent known by the department, the nature of such hazardous substances;

(iv) The proposed elements of the scope of work for remedial action required at the site; and

(v) A list of all potentially liable persons identified by the department who are also receiving special notice letters concerning the site.

(b) Special notice letters may include a draft consent decree and other information as appropriate under the circumstances.

(c) Special notice letters shall require the potentially liable person to submit, within thirty days of receipt, a written response to the department via certified mail or by personal service. The written response shall include the following:

(i) A statement indicating whether or not the potentially liable person wishes to proceed with the settlement procedures defined in this chapter and intends to submit a good faith offer for undertaking or financing remedial actions required at the site; and

(ii) The name, address, and phone number of a representative who is authorized to negotiate on behalf of the potentially liable person. Submission of a written response as required by this subsection is not an admission of liability.

(d) The department may extend the deadline for response to the special notice letter and provide additional time as it deems appropriate.

(5) Good faith offers.

(a) The potentially liable persons, individually or collectively, shall submit a good faith offer to the department within sixty days of receipt of a special notice letter.

(b) A good faith offer shall provide a sufficient basis for further negotiations and shall consist of:

(i) A response to each proposed element of the scope of work accompanying the special notice letter;

(ii) A paragraph by paragraph response to any draft consent decree accompanying the special notice letter;

(iii) A statement of willingness to conduct or finance a remedial action as described in the response to the proposed elements of the scope of work and any draft consent decree accompanying the special notice letter;

(iv) A demonstration of the technical capability of the potentially liable person(s) to undertake the remedial action. This will require that the potentially liable person(s) identify whom they expect to conduct the remedial actions required or the process they will undertake to select a qualified firm; and

(v) A demonstration of the capability of the potentially liable person(s) to finance the remedial action required.

(c) The department will determine whether or not the offer submitted constitutes a good faith offer. If the department determines the offer submitted under this subsection is not a good faith offer, it shall notify the potentially liable person(s) who submitted the offer.

(d) The department may extend the deadline for receipt of a good faith offer and provide additional time as it deems appropriate.

(6) Negotiation period.

(a) Following the department's determination that it has received a good faith offer, the department shall negotiate with the potentially liable person(s) to reach a settlement agreement within a period not to exceed:

(i) In the case of a remedial investigation/feasibility study, ninety days from the date of receipt of the special notice letter; and

(ii) In the case of a remedial design/remedial action implementation, one hundred twenty days from the date of receipt of the special notice letter.

(b) The department may extend the period of negotiation and provide additional time as it deems appropriate.

(c) The department shall negotiate with the potentially liable person(s) to achieve reasonable deadlines for investigating and remedying releases or threatened releases at the site. The department shall ensure that cleanup levels required under RCW 70.105B.060 are attained.

(d) The department may negotiate with the potentially liable person(s) to reach a settlement agreement which addresses one or more stages or elements of remedial action. Such stages or elements include, but are not limited to, remedial investigation, feasibility studies, remedial design, remedial action implementation, or components thereof.

(7) Final settlement offer procedures.

(a) This subsection applies only when the special notice letter has required final cleanup as defined in WAC 173-340-020(3).

(b) The potentially liable persons, individually or collectively, may submit a final settlement offer for final cleanup and any supporting material for consideration by the department. A final settlement offer must be received by the department no later than ten days after:

(i) The potentially liable person(s) fail to state in writing that they wish to proceed with the settlement process in accordance with subsection (4) of this section;

(ii) A determination is made by the department that a good faith offer has not been received as required by subsection (5) of this section; or

(iii) The negotiation period has expired in accordance with subsection (6) of this section.

(c) Upon receipt of a final settlement offer provided for in this subsection, the department shall prepare a notice of receipt of a final settlement offer and its availability for public review and invite public comments. The notice shall be published, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(d) The department shall receive written comments on the final settlement offer for at least thirty days from the date of publication.

(e) If the department accepts the final settlement offer, it shall file it as a proposed consent decree in accordance with subsection (8) of this section.

(f) If the department rejects the final settlement offer, it shall state its reasons for rejection to the potentially liable person(s) via certified mail, return receipt requested, or by personal service.

(8) Consent decree procedures.

(a) Upon agreement between the department and the potentially liable person(s) for voluntary remedial action, a proposed consent decree shall be filed promptly with the appropriate superior court or the federal court having jurisdiction over the matter.

(b) Upon filing a proposed consent decree, the department shall prepare a public notice. Such notice shall inform the public that an agreement has been reached, state its availability for public review and invite public comments. This notice shall be placed, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(c) The department shall receive written comments for at least thirty days from the date on which the proposed consent decree was filed with the court. The department shall file with the court all written comments received within the public comment period.

(d) If the parties agree to substantial changes to the proposed consent decree, the department shall place a notice in, at a minimum, one newspaper of general circulation in the vicinity of the site. Such notice shall inform the public that an agreement has been reached which substantially differs from that previously subjected to public comment. It shall also state that the revised proposed consent decree is available for public review and invite public comment. Comments shall be received for at least thirty days and shall be filed by the department with the court.

(9) Enforcement. The department may terminate settlement procedures and proceed with an enforcement action against a potentially liable person as provided in RCW 70.105B.120 or other applicable laws and may conduct remedial actions as provided in RCW 70.105B-.110 (2)(b) under the following circumstances:

(a)(i) When the potentially liable person fails to state in writing, in accordance with subsection (4) of this section, that it wishes to proceed with the settlement procedures; and

(ii) The final settlement offer procedures in subsection (7) of this section do not apply; or

(b) If the department determines that:

(i) A good faith offer has not been received from the potentially liable person in accordance with subsection (5) of this section; and

(ii) The final settlement offer procedures in subsection (7) of this section do not apply; or

(c)(i) If no settlement is reached with the potentially liable person within the time periods specified in subsection (6) of this section; and

(ii) The final settlement offer procedures in subsection (7) of this section do not apply; or

(d) If the department does not receive a final settlement offer from the potentially liable person in accordance with subsection (7) of this section.

NEW SECTION

WAC 173-340-050 STATE CONDUCTED REMEDIAL ACTION—NOTICE. (1) Upon determination by the department to conduct remedial action, the department may prepare a proposed scope of work as provided in RCW 70.105B.120 (7)(a).

(2) Upon preparation of a scope of work for state conducted remedial action, the department may publish a notice of its proposed scope of work, at a minimum, in one newspaper of general circulation in the vicinity of the site and indicate where the scope of work is available for review. Upon publication of such notice, comments

shall be received for thirty days. Following receipt of comments, the department may revise the scope of work to include such comments or adopt its proposed scope of work as final.

WSR 88-13-037
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order 88-11—Filed June 9, 1988]

I, Christine O. Gregoire, director of the Department of Ecology, do promulgate and adopt at Ecology Headquarters, Room 154, Abbott Raphael Hall, the annexed rules relating to the water resources program.

This action is taken pursuant to Notice No. WSR 88-09-054 filed with the code reviser on April 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

Chapter 173-100 WAC is promulgated pursuant to chapters 43.27A and 90.44 RCW and is intended to administratively implement that statute. Chapters 173-124, 173-128A, 173-130A, 173-132, 173-134A, 173-136 and 173-154 WAC are promulgated pursuant to chapters 43.21A, 43.27A, 90.03 and 90.44 RCW and are intended to administratively implement that statute. Chapter 173-150 WAC is promulgated pursuant to chapters 18.104, 43.21A, 43.27A, 90.44 and 90.54 RCW and is intended to administratively implement that statute. Chapters 173-164 and 173-166 WAC are promulgated pursuant to chapters 43.83B and 43.27A RCW and are intended to administratively implement that statute. Chapter 173-500 WAC is promulgated pursuant to chapters 90.54 and 43.27A RCW and is intended to administratively implement that statute. Chapters 173-501, 173-507, 173-508, 173-509, 173-510, 173-511, 173-512, 173-513, 173-514, 173-515, 173-522, 173-545, 173-549, 173-559, 173-563, 173-590, 173-591 and 173-592 WAC are promulgated pursuant to chapters 43.21B, 43.27A, 90.22 and 90.54 RCW and are intended to administratively implement that statute. Chapters 173-530, 173-531A, 173-532, 173-548, 173-555 and 173-596 WAC are promulgated pursuant to chapters 43.27A, 90.22 and 90.54 RCW and are intended to administratively implement that statute. Chapter 508-12 WAC is promulgated pursuant to chapter 43.27A RCW and is intended to administratively implement that statute. Chapters 508-14 and 508-64 WAC are promulgated pursuant to chapters 43.21A, 43.27A and 90.44 RCW and are 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 June 7, 1988.

By Phillip Johnson
Deputy Director

AMENDATORY SECTION (Amending Order DE 85-24, filed 12/20/85)

WAC 173-100-050 PROBABLE GROUND WATER MANAGEMENT AREAS. The department in cooperation with local government and ground water user groups shall identify probable ground water management areas.

(1) Probable ground water management areas may be proposed for identification at any time by the department upon its own motion or at the request of other state agencies, local government or ground water user groups.

(2) Probable ground water management area boundaries shall be delineated so as to enclose one or more distinct bodies of public ground water as nearly as known facts permit. Probable ground water management subareas shall be delineated so as to enclose all or any part of a distinct body of public ground water. Boundaries shall be based on hydrogeologic properties such as limits to lateral extent of aquifers, major perennial rivers, and regional ground water divides or as deemed appropriate by the department to most effectively accomplish the purposes of this chapter.

(3) The criteria to guide identification of probable ground water management areas shall include, but not be limited to, the following:

(a) Geographic areas where ground water quality is threatened;

(b) Aquifers that are declining due to restricted recharge or over-utilization;

(c) Aquifers in which over-appropriation may have occurred and adjudication of water rights has not yet been completed;

(d) Aquifers reserved or being considered for water supply reservation under chapter 90.54 RCW for future beneficial uses;

(e) Aquifers identified as the primary source of supply for public water supply systems;

(f) Aquifers underlying a critical water supply service area where the coordinated water system plan established pursuant to chapter 70.116 RCW has identified a need for a ground water management program;

(g) Aquifers designated as sole source aquifers by the federal Environmental Protection Agency;

(h) Geographic areas where the ground water is susceptible to contamination or degradation resulting from land use activities;

(i) Aquifers threatened by seawater intrusion; or

(j) Aquifers from which major ground water withdrawals have been proposed or appear imminent.

(4) The state agency, local government or ground water user group requesting probable ground water management area identification shall provide sufficient information for the department to determine if the area should be so identified. The department and other affected state and local governments and user groups may cooperate in preparing the request for identification.

(a) The request for identification shall be presented in a concise, factual report form and shall consider the guidelines and criteria set forth in subsections (2) and (3) of this section as they relate to the proposed area. It

shall also contain: (i) Supporting data as to the need for such identification; (ii) a general description of and rationale for the proposed ground water management area boundary; (iii) goals and objectives for the proposed ground water management area; (iv) an estimated cost of developing the ground water management program and potential funding sources; (v) recommendations for agencies, organizations and groups to be represented on the ground water management area advisory committee; and (vi) a recommendation for the lead agency, taking into consideration the responsibilities contained in WAC 173-100-080.

(b) The recommendation for lead agency shall first be submitted to the county or counties with jurisdiction for written concurrence. Such written concurrence shall be included with the information required in (a) of this subsection. If such concurrence cannot be obtained, the department shall attempt to mediate an agreement between the parties.

(c) The agency or ground water user group initiating the request for identification shall hold at least one public meeting for the purpose of receiving comments from the public, affected local, state and tribal agencies and ground water user groups.

(d) Upon completion, the request for identification shall be submitted to the department and other affected state and local agencies and ground water user groups for their review and comment. Comments shall be submitted to the department.

(5) If the department is proposing an area for identification, the department shall prepare a report containing the information in subsection (4)(a) of this section, hold a public meeting, and submit the report to affected state and local agencies and ground water user groups for their review and comment.

(6) Based upon review of the request for identification together with any comments received and a finding that the proposed area meets the guidelines and criteria of subsections (2) and (3) of this section, the department shall identify the proposed area as a probable ground water management area, establish the general planning boundaries and appoint a lead agency. When a probable ground water management area is included within only one county and that county indicates its desire to assume lead agency status, the department shall appoint the county as lead agency. The department shall notify affected state and local agencies, ground water user groups, tribal governments and local news media of such identification.

NEW SECTION

WAC 173-100-160 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-124-070 SUBAREA, ZONE, AND UNIT DISTINCTIONS. The Quincy unconsolidated zone and the Quincy basalt zone, defined at WAC 173-

124-050, are separate and distinct depth zones, as that term is used in chapter 90.44 RCW. The Quincy unconsolidated zone and the Quincy basalt zone are different than the Quincy shallow management unit and the Quincy deep management unit, which are defined at WAC 173-134-020.

The horizontal boundaries of the Quincy depth zones and the Quincy management units are identical to the exterior boundaries of the Quincy ground water subarea, and no Quincy depth zone or management unit extends beyond those boundaries, for comprehensive water management purposes. Neither does any depth zone of the Odessa ground water subarea, as defined at chapter 173-130 WAC, extend beyond the exterior boundaries of the Odessa ground water subarea, as those are defined and indicated at chapter 173-128 WAC. The bodies of ground water contained within the exterior boundaries of the Quincy ground water subarea are considered to be separate and distinct from the bodies of ground water contained within the exterior boundaries of the Odessa ground water subarea, which is significantly different than the Quincy ground water subarea in various respects.

This regulation is adopted to clarify the differences between the Quincy ground water subarea and the Odessa ground water subarea, and the differences among depth zones and management units. This regulation merely restates what the department of ecology consistently has understood to be the meaning and effect of this chapter and related chapters, notwithstanding any other understanding by the public or any other agency or board, federal or state.

NEW SECTION

WAC 173-124-080 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-124-06001 SUBAREA, ZONE, AND UNIT DISTINCTIONS.

NEW SECTION

WAC 173-128A-060 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-130A-215 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-130A-217 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 82-27, filed 8/4/82)

WAC 173-130A-220 REGULATION REVIEW. The department ~~((may review these regulations whenever requested or by action initiated by the department))~~ of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-132-060 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 83-10, filed 6/1/83)

WAC 173-134A-150 REGULATION REVIEW. ~~((The rules in this chapter shall be reviewed by the department at least once in every five years.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-134A-165 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

AMENDATORY SECTION (Amending Order DE 83-10, filed 6/1/83)

WAC 173-134A-170 APPEALS ~~((TO POLLUTION CONTROL HEARINGS BOARD))~~. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions, made pursuant to this chapter shall be subject to review by the pollution control hearings board ~~((under))~~ in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-136-095 ENFORCEMENT. In enforcement of this chapter, the department of ecology

may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

AMENDATORY SECTION (Amending Order 74-36, filed 1/9/75)

WAC 173-136-100 ~~((REVIEW BEFORE THE POLLUTION CONTROL HEARINGS BOARD))~~ APPEALS. ~~((Rulings on permits and other orders and decisions related))~~ All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review ~~((before))~~ by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-136-110 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-150-125 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

AMENDATORY SECTION (Amending Order 84-44, filed 5/29/85)

WAC 173-150-130 APPEALS. ~~((1) Regulatory orders issued by the department pursuant to this chapter shall be issued in accordance with RCW 43.27A.190.~~

~~((2))~~ All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board ~~((under))~~ in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-150-135 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-154-095 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

AMENDATORY SECTION (Amending Order 84-45, filed 5/29/85)

WAC 173-154-100 APPEALS. ~~((1) Regulatory orders issued by the department pursuant to this chapter shall be issued in accordance with RCW 43.27A.190.~~

~~((2))~~ All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board ~~((under))~~ in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-154-105 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 81-5, filed 3/13/81)

WAC 173-164-050 DETERMINATION OF RATE. Each irrigation season, the director shall determine the rate of payment per acre-foot of water per project, based on recovery of capital costs, type of crop, and ability to repay. For the ~~((1981))~~ 1981 irrigation season, the director has determined that the rate of charge for water from the irrigation well located in the NW 1/4, SE 1/4, Sec. 6, T9N, R25E, shall be ~~((forty= five))~~ forty-five dollars per acre-foot of water. An additional charge for water delivered under pressure based on the vertical distance (discharge head) from pump to point of discharge will be in accordance with the following rate table:

ADDITIONAL COST PER ACRE FOOT AT GIVEN DISCHARGE HEADS

Discharge Head from Pump (feet)	Price per Acre-foot
0 to 10	\$.70
10 to 20	1.51
20 to 30	2.18
30 to 40	2.95
40 to 50	3.67
50 to 60	4.90
60 to 70	5.15
70 to 80	5.93
80 to 90	6.63
90 to 100	7.35
100 to 110	8.10
110 to 120	8.84
120 to 130	9.58
130 to 140	10.32
140 to 150	11.06

NEW SECTION

WAC 173-164-080 REGULATION REVIEW. The department of ecology shall initiate a review of the

rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-166-070 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 75-23, filed 1/6/76)

WAC 173-500-010 BACKGROUND. (1) The Water Resources Act of 1971 (chapter 90.54 RCW) sets forth fundamentals of water resource policy to insure that the waters of the state will be protected and fully utilized for the greatest benefit to the people of the state of Washington and, in relation thereto, to provide direction to the department of ecology and other state agencies and officials in carrying out water and related resource programs.

(2) The department was directed, through the adoption of appropriate rules, to develop and implement a comprehensive state water program which would provide a process for making decisions on future water resource allocations and uses.

(3) The act provides that the department of ecology may develop a water program in regional segments so that immediate attention may be given to waters of a give physio-economic region of the state or to specific critical problems of water allocation and use.

(4) The act further directed the department of ecology to modify existing regulations and adopt new regulations to insure that existing regulatory programs are in accord with the water resource policies of the act.

AMENDATORY SECTION (Amending Order DE 75-23, filed 1/6/76)

WAC 173-500-030 AUTHORITY. This regulation is promulgated by the department of ecology under the authority of chapter 90.54 ~~((WAC))~~ RCW.

NEW SECTION

WAC 173-500-070 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order 85-19, filed 12/4/85)

WAC 173-501-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ~~((43.83B.335))~~ 90.03.600.

NEW SECTION

WAC 173-501-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order 85-19, filed 12/4/85)

WAC 173-501-100 REGULATION REVIEW. ~~((Review of the rules in this chapter shall be initiated by the department of ecology within five years of the date of adoption.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 79-8, filed 9/6/79)

WAC 173-507-020 ESTABLISHMENT OF INSTREAM FLOWS. (1) Instream flows are established for stream management units with monitoring to take place at certain control stations as follows:

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.1330.00 So. Fk. Skykomish River	51.6 28-27-10E	From confluence with N. Fk. Skykomish River to headwaters.
12.1381.50 Sultan River	5.1 17-28-8E	From mouth to headwaters.
12.1411.00 Skykomish River	25.0 12-27-6E	From mouth to headwaters, excluding So. Fk. Skykomish River and Sultan River.
12.1430.00 No. Fk. Snoqualmie	2.2 26-24-8E	From mouth to headwaters.
12.1445.00 Snoqualmie River	40.0 19-24-8E	From Snoqualmie Falls to headwaters, excluding No. Fork Snoqualmie River.
12.1485.00 Tolt River	8.7 31-26-8E	From mouth to headwaters.
12.1490.00 Snoqualmie River	23.0 9-25-7E	From confluence with Harris Creek to Snoqualmie Falls, excluding Tolt River.
12. Snoqualmie River	2.5 26-27-6E	From mouth to confluence with Harris Creek, including Harris Creek.
12.1554.00 Pilchuck River	1.9 18-28-6E	From mouth to headwaters.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.1508.00 Snohomish River	20.4 16-27-6E	From influence of mean annual high tide at low base flow levels to confluence with Skykomish River and Snoqualmie River, excluding Pilchuck River.

(2) Instream flows established for the stream management units in WAC 173-507-020(1) are as follows:

INSTREAM FLOWS IN THE SNOHOMISH RIVER BASIN
(in Cubic Feet per Second)

Month	Day	12.1330.00 So.Fk. Skykomish	12.1411.00 Skykomish	12.1430.00 No.Fk* Snoqualmie	No.Fk.** Snoqualmie
Jan.	1	900	2200	260	200
	15	900	2200	260	200
Feb.	1	900	2200	260	200
	15	900	2200	260	200
Mar.	1	900	2200	260	200
	15	900	2200	300	200
Apr.	1	1100	2650	300	200
	15	1250	3250	300	200
May	1	1250	4000	300	200
	15	1250	4900	300	200
June	1	1250	4900	300	200
	15	1250	4900	300	200
July	1	1250	3250	300	200
	15	950	2170	195	140
Aug.	1	650	1450	130	100
	15	450	1000	130	100
Sept.	1	450	1000	130	100
	15	450	1000	130	100
Oct.	1	550	1300	130	130
	15	700	1700	165	165
Nov.	1	900	2200	210	200
	15	900	2200	260	200
Dec.	1	900	2200	260	200
	15	900	2200	260	200

*Normal year flows must be maintained at all times unless a critical condition is declared by the director. The director, or his designee, may authorize, in consultation with the state departments of fisheries and ((game)) wildlife, a reduction in instream flows during a critical condition period. At no time are diversions subject to this regulation permitted for any reason when flows fall below the following critical year flows, except where a declaration of overriding considerations of public interest is made by the director.

**Critical year flows represent flows below which the department believes substantial damage to instream values will occur.

Month	Day	12.1381.50 Sultan	12.1445.00 Snoqualmie (above Falls)	12.1485.50 Tolt River*	Tolt River**
Jan.	1		1550	280	190
	15		1550	280	190
Feb.	1		1550	280	190
	15		1550	280	190
Mar.	1		1550	280	190
	15		1550	280	190
Apr.	1		1550	280	190
	15		1550	280	190

Month	Day	12.1381.50 Sultan	12.1445.00 Snoqualmie (above Falls)	12.1485.50 Tolt River*	Tolt River**
May	1		1550	280	190
	15		1550	280	190
June	1		1550	280	190
	15		1550	280	165
July	1		1550	280	140
	15		1100	240	120
Aug.	1		770	170	120
	15		600	120	120
Sept.	1		600	120	120
	15		600	120	120
Oct.	1		820	190	185
	15		1100	280	190
Nov.	1		1550	280	190
	15		1550	280	190
Dec.	1		1550	280	190
	15		1550	280	190

*Normal year flows must be maintained at all times unless a critical condition is declared by the director. The director, or his designee, may authorize, in consultation with the state departments of fisheries and ((game)) wildlife, a reduction in instream flows during a critical condition period. At no time are diversions subject to this regulation permitted for any reason when flows fall below the following critical year flows, except where a declaration of overriding considerations of public interest is made by the director.

**Critical year flows represent flows below which the department believes substantial damage to instream values will occur.

Month	Day	12.1490.00 Snoqualmie (Carnation)	12. Snoqualmie (mouth)	12.1554.00 Pilchuck R.	12.1508.00 Snohomish R.
Jan.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Feb.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Mar.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Apr.	1	2500	2800	300	6000
	15	2500	2800	300	6500
May	1	2500	2800	300	7200
	15	2500	2800	300	8000
June	1	2500	2800	300	8000
	15	2500	2800	300	8000
July	1	1850	2180	220	5700
	15	1300	1550	160	4000
Aug.	1	950	1080	120	2800
	15	700	800	85	2000
Sept.	1	700	800	85	2000
	15	700	800	85	2000
Oct.	1	1050	1200	130	2900
	15	1650	1850	200	4000
Nov.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Dec.	1	2500	2800	300	6000
	15	2500	2800	300	6000

(3) Instream flow hydrographs, as represented in the document entitled "Snohomish River instream resource protection program," shall be used for definition of instream flows on those days not specifically identified in WAC 173-507-020(2).

(4) All consumptive water rights hereafter established shall be expressly subject to the instream flows established in WAC 173-507-020 (1) through (3).

(5) At such time as the departments of fisheries and/or ((game)) wildlife and the department of ecology

agree that additional stream management units should be defined, other than those specified in WAC 173-507-020(1), the department of ecology shall identify additional control stations and management units on streams and tributaries within the basin and shall set instream flows where possible for those stations as provided in chapters 90.22 and 90.54 RCW.

AMENDATORY SECTION (Amending Order DE 79-8, filed 9/6/79)

WAC 173-507-070 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43-83B-335)) 90.03.600.

NEW SECTION

WAC 173-507-075 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 79-8, filed 9/6/79)

WAC 173-507-080 REGULATION REVIEW. ~~((The rules in this chapter shall be reviewed by the department at least once in every five year period.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 79-9, filed 9/6/79)

WAC 173-508-070 FUTURE RIGHTS. No water rights to divert or store public surface waters of the Cedar-Sammamish basin WRIA 8 shall hereafter be granted which shall conflict with the instream flows and closures established in this chapter. Future rights for nonconsumptive uses may be granted under the provisions of this chapter.

AMENDATORY SECTION (Amending Order DE 79-9, filed 9/6/79)

WAC 173-508-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43-83B-335)) 90.03.600.

NEW SECTION

WAC 173-508-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the

pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 79-9, filed 9/6/79)

WAC 173-508-100 REGULATION REVIEW. ~~((The rules in this chapter shall be reviewed by the department at least once in every five year period.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 79-32, filed 6/6/80)

WAC 173-509-030 ESTABLISHMENT OF IN-STREAM FLOWS. (1) Instream flows are established for stream management units with monitoring to take place at certain control stations as follows:

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.1130.00 Green River near Auburn, WA	32.0 17-21-5	From influence of mean annual high tide at low instream flow levels (approximately River Mile 11.0) to USGS Gage #12.1067.000
12.1067.00 Green River near Palmer, WA	60.4 13-21-7	From USGS Gage #12.1067.000 to headwaters.

The Palmer gage will be used to condition future water rights upstream from that gage. The Auburn gage will be used to condition future water right appropriations downstream from the Palmer gage. If it becomes necessary to change a control station location to improve measurement accuracy or management capability, the department shall do so under provisions in WAC 173-500-060(6).

(2) Instream flows established for the stream management units in WAC 173-509-030(1) are as follows:

INSTREAM FLOWS FOR FUTURE WATER RIGHTS IN THE GREEN-DUWAMISH RIVER BASIN (in Cubic Feet per Second)

Month	Day	12.1130.00 Normal Year Green River Near Auburn	12.1067.00 Normal Year Green River Near Palmer	12.1067.00 Critical Year Green River Near Palmer
Jan.	1	650	300	300
	15	650	300	300
Feb.	1	650	300	300
	15	650	300	300
Mar.	1	650	300	300
	15	650	300	300
Apr.	1	650	300	300
	15	650	300	300
May	1	650	300	300
	15	650	300	300

Month	Day	12.1130.00 Normal Year Green River Near Auburn	12.1067.00 Normal Year Green River Near Palmer	12.1067.00 Critical Year Green River Near Palmer
June	1	650	300	300
	15	650	300	210
July	1	550	300	150
	15	300	150	150
Aug.	1	300	150	150
	15	300	150	150
Sept.	1	300	150	150
	15	300	150	150
Oct.	1	300	190	150
	15	350	240	150
Nov.	1	550	300	190
	15	550	300	240
Dec.	1	650	300	300
	15	650	300	300

(a) Future water right holders subject to regulation by the Palmer gage will not be allowed to continue diversions when flows fall below the normal year instream flows at the Palmer gage unless a critical condition is declared by the director. The director, or his designee, may authorize, in consultation with the state departments of fisheries and ~~((game))~~ wildlife, a reduction in instream flows during a critical condition period. At no time will diversions subject to regulation by the Palmer gage be continued when flows fall below the critical year instream flows at Palmer. At no time will diversions subject to regulation by the Auburn gage be continued when flows fall below the normal year instream flows at Auburn. When a declaration of overriding considerations of public interest is made by the director, these requirements may be modified or waived. A declaration of overriding consideration because of drought conditions shall not be made when natural flows equal or exceed the one-in-fifty year low flow condition. The director shall consult with the directors of the state departments of ~~((game))~~ wildlife and fisheries before making a declaration of overriding consideration. Any declaration of critical conditions or overriding considerations of public interest made by the director shall be communicated to all basin resource agencies, water purveyors, and local general purpose governments, and include the reason for such declaration and its expected duration.

(b) The director will consider declaring a critical period when:

(1) In the spring the basin runoff volume forecast of May 1 is not adequate to meet the sum of any rights which the city of Tacoma may have established through historical usage prior to the adoption of this regulation plus the normal year instream flows plus the volume required to replenish the conservation storage.

(2) In the summer and fall the sum of the reservoir inflows extrapolated from current observations plus the volume of water in storage at Howard A. Hanson Dam is not adequate to meet the sum of any rights which the city of Tacoma may have established through historical usage prior to the adoption of this regulation plus the normal year instream flows. Within five days the director will inform the major affected water right holders of the extent of the allowed deviation from the normal year instream flows. Once a deviation from normal year instream flows is allowed, the water resources shall be

evaluated at least every 7 days to see if additional deviation is warranted. Before allowing deviation from the normal year instream flows, water conservation practices and use of other sources shall be considered.

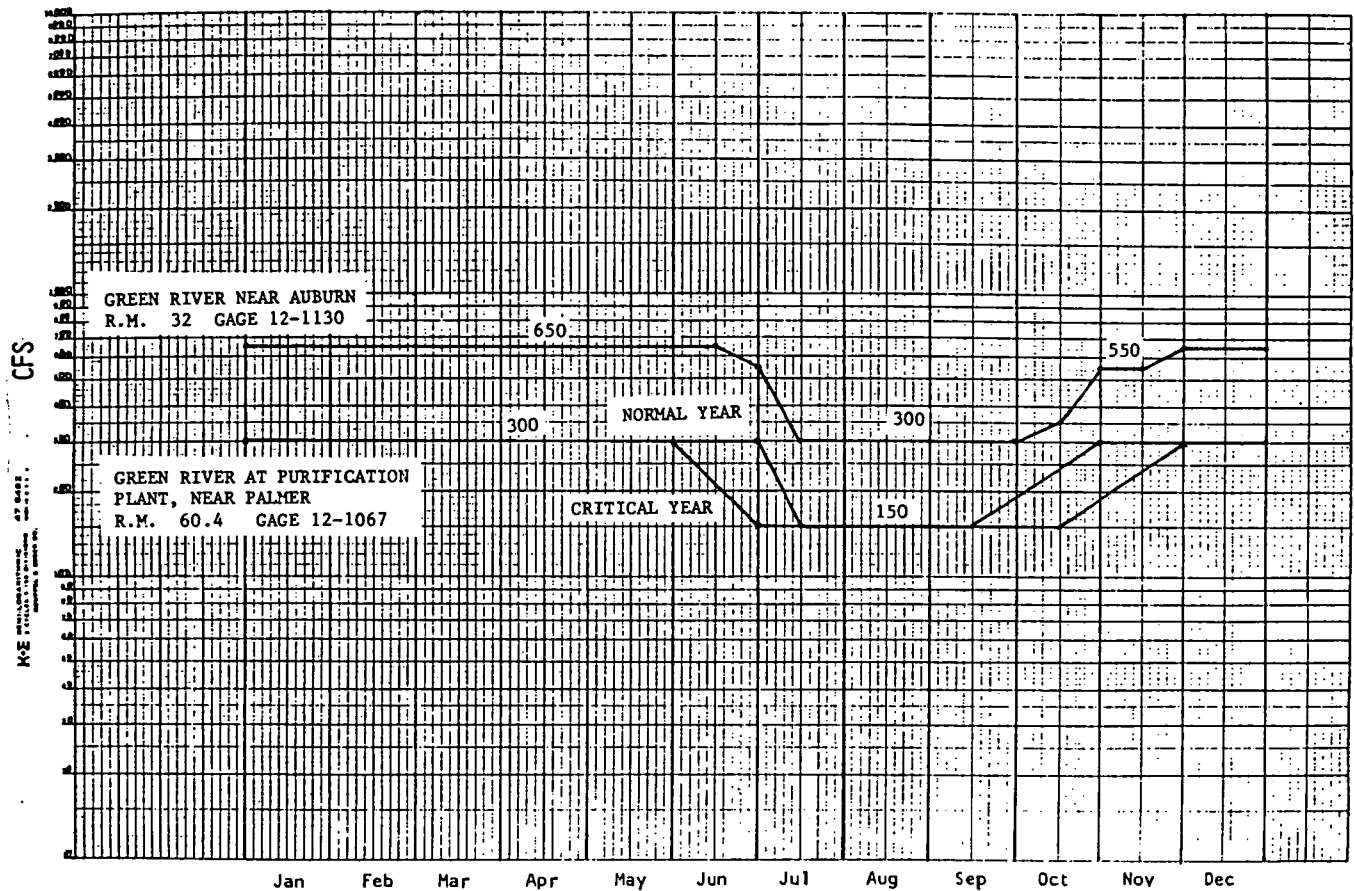
(c) In addition to other necessary provisions, any diversion of the natural flow, including diversion to storage under future water rights shall cease (or be regulated to the extent necessary) when the flow at the applicable control station falls below (or is less than) the instream flows established by this regulation and made a condition of said future water right. Said future water rights are subject to the rights and authority of the Corps of Engineers to utilize for storage and conservation flows, the natural inflow to the Howard A. Hanson reservoir and to all other prior water right holders' authorized use of natural flows, including any rights that the city of

Tacoma may have established through historical usage. The use of stored waters is not to be impaired, limited, or diminished by this regulation.

The department recognizes that from time to time the Corps of Engineers may establish a minimum reservoir level which is necessary to provide conservation flows with a high measure of assurance. When the reservoir falls below this level it may be necessary for the Corps of Engineers to replenish conservation storage. When this occurs, water rights subject to the provisions of this chapter may be temporarily regulated or diminished and the actual stream discharge diminished.

(3) Instream flows, as represented in Figure 1, shall be used for definition of instream flows on those days not specifically identified in WAC 173-509-030(2).

FIGURE 1 - PROPOSED INSTREAM FLOWS FOR FUTURE WATER RIGHTS IN THE GREEN-DUWAMISH RIVER BASIN



(4) All consumptive water rights hereafter established shall be expressly subject to the instream flows established in WAC 173-509-030 (1) through (3). However, nothing in this section shall prohibit the release or diversion of stored water or the use of any water course as a means for its conveyance in accordance with RCW 90.03.030.

AMENDATORY SECTION (Amending Order DE 79-32, filed 6/6/80)

WAC 173-509-080 ENFORCEMENT. In the enforcement of this chapter, the department of ecology

may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43-83B-335)) 90.03.600.

NEW SECTION

WAC 173-509-085 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 79-32, filed 6/6/80)

WAC 173-509-090 REGULATION REVIEW. ~~((The rules in this chapter shall be reviewed by the department of ecology at least once in every five year period.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions. The director shall initiate a review of the rules by appointing a committee of major affected water right holders, basin resource management interests, and governmental agencies.

AMENDATORY SECTION (Amending Order DE 79-31, filed 3/21/80)

WAC 173-510-030 ESTABLISHMENT OF IN-STREAM FLOWS. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es)
12-0965.00 Upper Puyallup River	12.2 25-20-4E	Confluence with Puyallup River to the headwaters including all tributaries
12-0957.00 Carbon River	0.1 13-19-4E	From the confluence with the White River to the headwaters including all tributaries, excluding the Carbon River.
12-1015.00 Lower Puyallup River	6.6 20-20N-R4E	From the influence of mean annual high tide at low base flow levels to the confluence with the White River including all tributaries and excluding the White River.

(2) Instream flows are established for the stream management units in WAC 173-510-030(1) as follows:

Instream Flows in the Puyallup River Basin

(in cubic feet per second)

Month	Day	12-0965.00 Puyallup River (At Alderton)	12-1015.00 Puyallup River	12-0957.00 Carbon River
Jan	1	700	1400	600
	15	700	1400	550
Feb	1	750	1400	550
	15	800	1500	550
Mar	1	800	1600	550
	15	850	1700	550
Apr	1	900	1800	600
	15	950	1900	700
May	1	950	2000	900
	15	1000	2000	900
Jun	1	1050	2000	600
	15	1050	2000	500
Jul	1	1050	2000	450
	15	1050	1750	400
Aug	1	900	1500	350
	15	800	1300	350
Sep	1	600	1150	350
	15	500	1000	350
Oct	1	500	1000	350
	15	500	1000	550
Nov	1	600	1000	550
	15	700	1100	600
Dec	1	700	1200	700
	15	700	1300	700

(3) Instream flow hydrographs, as represented in the document entitled "Puyallup River basin instream resource protection program," shall be used for definition of instream flows on those days not specifically identified in WAC 173-510-030(2).

(4) All consumptive water rights hereafter established shall be expressly, subject to instream flows established in WAC 173-510-030(1) through (3).

(5) At such time as the department of fisheries and/or department of ((game)) wildlife and the department of ecology shall agree that additional stream management units should be identified other than those specified in WAC 173-510-030(1), the department of ecology shall identify additional control stations and management units on streams and tributaries within the basin and shall further protect instream flows where possible for those stations as provided in chapters 90.22 and 90.54 RCW.

AMENDATORY SECTION (Amending Order DE 79-31, filed 3/21/80)

WAC 173-510-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43-83B-335)) 90.03.600.

NEW SECTION

WAC 173-510-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 79-31, filed 3/21/80)

WAC 173-510-100 REGULATION REVIEW. ((The rules in this chapter shall be reviewed by the department of ecology at least once in every five years.)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 80-42, filed 2/2/81)

WAC 173-511-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43.83B.335)) 90.03.600.

NEW SECTION

WAC 173-511-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 80-42, filed 2/2/81)

WAC 173-511-100 REGULATION REVIEW. ((The rules in this chapter shall be reviewed by the department of ecology at least once in every four years. In addition, the department may review this regulation whenever requested by private, public, state, and federal agencies.)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order 79-23, filed 12/12/79)

WAC 173-512-070 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43.83B.335)) 90.03.600.

NEW SECTION

WAC 173-512-075 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order 79-23, filed 12/12/79)

WAC 173-512-080 REGULATION REVIEW. ((The rules in this chapter shall be reviewed by the department of ecology at least once in every five year period.)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 80-11, filed 6/24/80)

WAC 173-513-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43.83B.335)) 90.03.600.

NEW SECTION

WAC 173-513-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 80-11, filed 6/24/80)

WAC 173-513-100 REGULATION REVIEW. ((The rules in this chapter shall be reviewed by the department of ecology at least once in every five years.)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 83-34, filed 1/23/84)

WAC 173-514-080 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43.83B.335)) 90.03.600.

NEW SECTION

WAC 173-514-085 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 83-34, filed 1/23/84)

WAC 173-514-090 REGULATION REVIEW. ((Review of the rules in this chapter shall be initiated by the department of ecology within five years of the date

of adoption.)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 80-45, filed 7/24/81)

WAC 173-515-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43.83B.335)) 90.03.600.

NEW SECTION

WAC 173-515-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 80-45, filed 7/24/81)

WAC 173-515-100 REGULATION REVIEW. ~~((The rules in this chapter shall be reviewed by the department of ecology at least once in every five year period.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order 75-31, filed 3/10/76)

WAC 173-522-020 ESTABLISHMENT OF BASE FLOWS. (1) Base flows are established for stream management units with monitoring to take place at certain control stations as follows:

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.0200.00 Chehalis River Conf. w/Elk Creek	101.8 14-13-5W	From confluence with Elk Creek to headwaters except Elk Cr.
12.0205.00 Elk Creek	2.5 18-13-5W	From confluence with Chehalis River to headwaters.
12.0216.30 So. Fork Chehalis R.	0.3 24-13-4W	From mouth to headwaters.
12.0235.00 Chehalis River	77.6 2-13-3W	From confluence with Newaukum River to confluence with Elk Cr., excluding Elk Creek, and Newaukum Rivers.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.0240.00 S. Fork Newaukum R.	22.8 28-13-1E	From confluence with Lost Creek to headwaters, excluding Lost Creek.
12.0245.00 N. Fork Newaukum River	6.6 35-14-1W	From mouth to headwaters.
12.0250.00 Newaukum River	4.1 9-13-2W	From mouth to confluence with Lost Cr. on S. Fork Newaukum River, excluding N. Fork Newaukum River.
12.0253.00 Salzer Creek	3.8 22-14-2W	From mouth to headwaters.
12.0264.00 Skookumchuck River	6.4 12-15-2W	From mouth to headwaters.
12.0275.00 Chehalis River at Grand Mound	59.9 22-15-3W	From confluence with Newaukum River to confluence with Prairie Creek.
12.0292.00 Black River	4.1 33-16-4W	From mouth to headwaters.
12.0305.00 Cedar Creek	1.1 14-16-5W	From mouth to headwaters.
12.0309.00 Porter Creek	1.3 22-17-5W	From mouth to headwaters.
12.0310.00 Chehalis River at Porter	33.3 28-17-5W	From confluence with Prairie Creek near Grand Mound to confluence with Porter Creek including Prairie Creek.
12.0325.00 Cloquallum Creek	1.9 36-18-6W	From mouth to headwaters.
12.0342.00 East Fk. Satsop R.	15.9 15-19-6W	From confluence with Dry Run Cr. to headwaters excluding Dry Run Cr.
12.0343.00 Decker Creek	0.3 31-19-6W	From mouth to headwaters.
12.0345.00 Middle Fk. Satsop R.	0.4 36-19-7W	From mouth to headwaters.
12.0350.00 Satsop River	2.3 36-18-7W	From mouth to confluence with Dry Run Cr. on East Fk. Satsop R.
12.0350.02 Chehalis R. below confl. w/Satsop R.	20.0 7-17-6W	From confluence with Porter Ck. to just below confluence with Satsop River.
12.0374.00 Wynoochee River	5.9 27-18-8W	From mouth to headwaters.
12.0380.00 Wishkah River	16.2 22-19-9W	From influence of mean annual high tide at low base flow levels to headwaters. Excluding E. Fk. Wishkah River.
12.0382.90 E. Fk., Wishkah R.	0.9 36-19-9W	From mouth to headwaters.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries	Month	Day	12.0240.00	12.0245.00	12.0250.00	12.0253.00
					Newaukum R. S. Fork	Newaukum R. N. Fork	Newaukum R.	Salzer Cr.
12.0385.00 W. Fk. Hoquiam River	9.4 14-18-10W	From mouth to headwaters.	Jan.	1	125	62	250	11
				15	125	62	250	11
12.0385.80 Middle Fk. Hoquiam R.	1.6 4-18-10W	From mouth to headwaters.	Feb.	1	125	62	250	11
				15	125	62	250	11
12.0386.60 East Fork Hoquiam	7.1 8-18-9W	From mouth to headwaters.	Mar.	1	125	62	250	11
				15	125	62	250	11
12.0390.00 Humptulips River	24.8 17-20-10W	From influence of mean annual high tide at low base flow levels to headwaters.	Apr.	1	125	62	250	11
				15	125	62	250	11
12.0174.00 Elk River	3.0 3-16-11W	From influence of mean annual high tide at low base flow levels to headwaters.	May	1	110	47	210	5.8
				15	88	36	160	2.8
12.0175.00 Johns River	6.0 21-16-10W	From influence of mean annual high tide at low base flow levels to headwaters.	June	1	70	27	118	1.4
				15	56	21	90	.73
12.0180.00 Newkah Creek	3.5 32-17-9W	From influence of mean annual high tide at low base flow levels to headwaters.	July	1	45	16	68	.38
				15	36	12	52	.20
12.0185.00 Charley Creek	2.0 21-17-9W	From influence of mean annual high tide at low base flow levels to headwaters.	Aug.	1	29	9	38	.10
				15	27	7	35	.05
			Sep.	1	27	7	35	.05
				15	27	7	35	.05
			Oct.	1	33	8.4	43	.14
				15	40	10	54	.40
			Nov.	1	58	19	91	1.35
				15	85	34	150	3.9
			Dec.	1	125	62	250	11
				15	125	62	250	11

Month	Day	12.0264.00 Skookumchuck River	12.0275.00 Chehalis R. at Grand M.	12.0292.00 Black R.	12.0305.00 Cedar Cr.
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Jan.	1	160	1300	200	90
	15	160	1300	200	90
Feb.	1	160	1300	200	90
	15	160	1300	200	90
Mar.	1	160	1300	200	90
	15	160	1300	200	90
Apr.	1	160	1300	200	90
	15	160	1300	200	90
May	1	160	1000	170	70
	15	130	780	145	54
June	1	103	600	120	40
	15	83	460	104	31
July	1	67	355	88	24
	15	54	275	75	19
Aug.	1	43	210	70	14
	15	35	165	66	11
Sep.	1	35	165	66	11
	15	35	165	66	11
Oct.	1	35	200	68	13.8
	15	35	250	70	17
Nov.	1	59	440	100	30
	15	96	760	140	52
Dec.	1	160	1300	200	90
	15	160	1300	200	90

(2) Base flows established for the stream management units in WAC 173-522-020(1) are as follows:

BASE FLOWS IN THE CHEHALIS RIVER BASIN
(In Cubic Feet per Second)

Month	Day	12.0200.00 Chehalis R. nr. Elk Cr.	12.0205.00 Elk Cr.	12.0216.30 So. Fk. Chehalis R.	12.0235.00 Chehalis R.
Jan.	1	260	100	200	700
	15	260	100	200	700
Feb.	1	260	100	200	700
	15	260	100	200	700
Mar.	1	260	100	200	700
	15	260	100	200	700
Apr.	1	260	100	200	700
	15	260	100	200	700
May	1	195	76	145	525
	15	146	57	105	400
June	1	108	43	75	300
	15	82	32	55	230
July	1	62	25	40	175
	15	46	19	29	130
Aug.	1	37	16	21	98
	15	31	14	15	75
Sep.	1	31	14	15	75
	15	31	14	15	75
Oct.	1	39	15	21	92
	15	49	17	28	115
Nov.	1	88	31	56	215
	15	150	56	105	390
Dec.	1	260	100	200	700
	15	260	100	200	700

Month	Day	12.0309.00 Porter Cr.	12.0310.00 Chehalis R. at Porter	12.0325.00 Cloquallum Creek	12.0342.00 Satsop R. E. Fork
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Jan.	1	90	2500	150	280
	15	90	2500	150	280
Feb.	1	90	2500	150	280
	15	90	2500	150	280
Mar.	1	90	2500	150	280
	15	90	2500	150	280
Apr.	1	90	2500	150	280
	15	90	2500	150	280
May	1	56	1900	118	240
	15	35	1420	92	210
June	1	29	1060	70	175
	15	24	800	55	152

Month	Day	12.0309.00 Porter Cr.	12.0310.00 Chehalis R. at Porter	12.0325.00 Cloquallum Creek	12.0342.00 Satsop R. E. Fork
July	1	21	610	43	130
	15	17	460	34	112
Aug.	1	14.2	340	29	104
	15	12	260	24	95
Sep.	1	12	260	24	86
	15	12	260	24	80
Oct.	1	13.3	320	27	80
	15	15	400	30	80
Nov.	1	28	760	52	125
	15	50	1380	88	185
Dec.	1	90	2500	150	280
	15	90	2500	150	280

Month	Day	12.0343.00 Decker Cr.	12.0345.00 Satsop R. M. Fork	12.0350.00 Satsop R. nr.	12.0350.02 Chehalis R. Satsop
Jan.	1	130	260	1100	3800
	15	130	260	1100	3800
Feb.	1	130	260	1100	3800
	15	130	260	1100	3800
Mar.	1	130	260	1100	3800
	15	130	260	1100	3800
Apr.	1	130	260	1100	3800
	15	130	260	1100	3800
May	1	115	203	910	2910
	15	103	160	750	2300
June	1	91	125	600	1750
	15	81	98	500	1360
July	1	72	78	425	1085
	15	64	61	360	860
Aug.	1	56	48	300	680
	15	50	38	260	550
Sep.	1	50	38	260	550
	15	50	38	260	550
Oct.	1	54	41	280	640
	15	58	45	300	750
Nov.	1	77	83	475	1305
	15	100	145	720	2220
Dec.	1	130	260	1100	3800
	15	130	260	1100	3800

Month	Day	12-0374.00 Wynoochee River	12-0380.00 Wishkah R.	12-0382.90 Wishkah R. E. Fk.	12-0385.00 Hoquiam R. W. Fk.
Jan.	1	560	135	33	32
	15	560	135	33	32
Feb.	1	560	135	33	32
	15	560	135	33	32
Mar.	1	560	135	33	32
	15	560	135	33	32
Apr.	1	560	135	33	32
	15	560	135	33	32
May	1	560	135	33	32
	15	560	113	27	26
June	1	450	95	21	20
	15	360	80	17	16
July	1	290	68	14	12.8
	15	230	57	11.3	10
Aug.	1	185	47	9	8
	15	150	47	9	8
Sep.	1	150	47	9	8
	15	150	47	9	8
Oct.	1	150	53	10.4	9.4
	15	230	60	12	11
Nov.	1	360	91	20	19
	15	560	135	33	32
Dec.	1	560	135	33	32
	15	560	135	33	32

Month	Day	12-0385.80 Hoquiam R. M. Fk.	12-0386.60 Hoquiam R. E. Fk.	12-0390.00 Humptulips River	12-0174.00 Elk River
Jan.	1	27	44	600	50
	15	27	44	600	50
Feb.	1	27	44	600	50
	15	27	44	600	50
Mar.	1	27	44	600	50
	15	27	44	600	50
Apr.	1	27	44	600	50
	15	27	44	600	50
May	1	27	44	600	43
	15	21	38	500	37
June	1	16	33	400	31
	15	12.2	29	325	26
July	1	9.5	25	265	22
	15	7.4	22	215	19
Aug.	1	5.6	19	170	16
	15	5.6	19	170	16
Sep.	1	5.6	19	170	16
	15	5.6	19	170	16
Oct.	1	6.7	19	205	20
	15	8.0	25	250	25
Nov.	1	15	34	390	32
	15	27	44	600	40
Dec.	1	27	44	600	50
	15	27	44	600	50

Month	Day	12-0175.00 Johns River	12-0180.00 Newskah Creek	12-0185.00 Charley Creek
Jan.	1	70	17	14
	15	70	17	14
Feb.	1	70	17	14
	15	70	17	14
Mar.	1	70	17	14
	15	70	17	14
Apr.	1	70	17	14
	15	50	17	14
May	1	50	13.4	11
	15	42	10.7	8.6
June	1	35	8.3	6.7
	15	29	6.5	5.4
July	1	24	5.2	4.2
	15	21	4.1	3.3
Aug.	1	17	3.2	2.5
	15	17	2.5	2
Sep.	1	17	2.5	2
	15	17	2.5	2
Oct.	1	17	3.2	2.6
	15	24	4	3.5
Nov.	1	35	8.4	7.1
	15	49	17	14
Dec.	1	70	17	14
	15	70	17	14

(3) Base flow hydrographs, Appendix 1, pages 19-23 in the document entitled "water resources management program in the Chehalis River basin" dated November, 1975 shall be used for definition of base flows on those days not specifically identified in WAC 173-522-020(2).

(4) All rights hereafter established shall be expressly subject to the base flows established in WAC 173-522-020 (1) through (3).

(5) At such time as the departments of fisheries and/or ((game)) wildlife provide specific information substantiating the need for flows higher than the flows set forth in WAC 173-522-020(2), the department of ecology agrees to proceed with setting minimum flows as provided under chapter 90.22 RCW within one year

from the time of said request, unless agreement to another time frame is reached between parties.

NEW SECTION

WAC 173-522-070 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-522-080 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-522-090 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-530-910 AUTHORITY.
- WAC 173-530-920 PURPOSE.
- WAC 173-530-930 DEFINITIONS.
- WAC 173-530-940 DECLARATION OF WITHDRAWAL.
- WAC 173-530-950 EXISTING RIGHTS NOT AFFECTED.
- WAC 173-530-960 EXEMPTIONS.

NEW SECTION

WAC 173-531A-080 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-531A-090 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-532-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology

may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-532-100 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-532-110 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW (~~43.83B.335~~) 90.03.600.

NEW SECTION

WAC 173-545-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-100 REGULATION REVIEW. ~~((Review of the rules in this chapter shall be initiated by the department of ecology within five years of the date of adoption.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-548-080 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-548-090 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-548-100 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 84-15, filed 6/20/84)

WAC 173-549-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43-83B-335)) 90.03.600.

NEW SECTION

WAC 173-549-095 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 84-15, filed 6/20/84)

WAC 173-549-100 REGULATION REVIEW. ((This chapter shall be reviewed by the department of ecology at least once in every five-year period.)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-555-080 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-555-090 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-555-100 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-559-080 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-559-090 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-559-100 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Orders DE 82-35 and DE 82-35A, filed 10/7/82 and 10/8/82)

WAC 173-563-050 CRITICAL FLOW ADJUSTMENT TO, AND WAIVERS OF, MINIMUM INSTANTANEOUS AND AVERAGE WEEKLY FLOWS. (1) The director of the department of ecology, when he deems it to be an overriding public interest requirement, may reduce the minimum instantaneous and/or average weekly flows for the Columbia River established in this chapter up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids be less than 36,000 cfs. The amount of the reduction (from zero to twenty-five percent) shall be: (a) Based on the March 1 forecast for April through September runoff at The Dalles, Oregon, as published by the National Weather Service in Water Supply Outlook for the Western United States, and (b) determined from Figure 1 in WAC 173-563-900.

(2) Prior to implementing the critical flow adjustment to minimum flows in a low water year, the department of ecology shall conduct a public hearing to announce its intentions and to solicit public and agency comment on the proposed action.

(3) The department has determined that some damage to instream values may be incurred at flow values equivalent to eighty-eight million acre-feet or less. Therefore, the reduced flows shall be referred to as critical flows and shall be authorized by the director of the department of ecology under the critical flow adjustment

only when the March 1 forecast of April through September flow at The Dalles is below eighty-eight million acre-feet (MAF). The critical flows shall, in no case, provide less than 39.4 MAF (seventy-five percent of 52.5 MAF for the April through September period).

(4) The director of the department of ecology may waive the state's minimum flow requirements delineated in this chapter for a defined period of time for the purpose of studying the impacts of various flow levels on the river system and its operation when such studies are to be conducted in consultation with the Washington departments of fisheries and/or ((game)) wildlife and when said exemption is requested by the departments of fisheries and/or ((game)) wildlife. Such a request shall be made by letter to the director of the department of ecology. This waiver may include the Federal Energy Regulatory Commission studies to be conducted under Docket No. E-9569 and any operational change which does not allow the flows under this chapter to be met, but which, in the opinion of the director, still provides a commensurate level of protection for instream resources.

AMENDATORY SECTION (Amending Order DE 80-2, filed 6/24/80)

WAC 173-563-070 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under the authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW ((43.83B.335)) 90.03.600.

NEW SECTION

WAC 173-563-075 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Orders DE 82-35 and DE 82-35A, filed 10/7/82 and 10/8/82)

WAC 173-563-080 OVERRIDING CONSIDERATIONS. Future authorizations for the use of water which would conflict with the provisions of this chapter shall be authorized by the director only in those situations when it is clear that overriding considerations of the public interest will be served. Such decisions shall be made in consultation with the directors of the Washington state department of fisheries, the Washington state department of ((game)) wildlife, the Washington state department of agriculture, and the Washington state ((department of natural resources)) commissioner of public lands.

Consideration of the public interest by the director of the department of ecology shall include an evaluation of all uses of the river and its impact on the state of Washington. The uses to be considered include, but are not limited to, uses of water for domestic, stockwatering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental

and aesthetic values and all other uses compatible with the enjoyment of the public waters of the state.

AMENDATORY SECTION (Amending Order DE 80-2, filed 6/24/80)

WAC 173-563-090 REGULATION REVIEW. ((This chapter shall be reviewed by the department of ecology at least once in every five year period:)) The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 75-32, filed 3/10/76)

WAC 173-590-090 NOTICE. Upon receipt of a proper petition, the director shall publish notice thereof in a newspaper or newspapers of general circulation in the county or counties in which the storage, diversion, and use is to be made, once a week for two consecutive weeks.

The director shall send notice thereof to the secretary, department of social and health services, and to the directors of the departments of fisheries and ((game)) wildlife for the purpose of soliciting their comments.

AMENDATORY SECTION (Amending Order DE 75-32, filed 3/10/76)

WAC 173-590-110 RESERVATION. Upon review of a petition for reservation, related data and the results from the departmental investigation, the director shall notify the petitioner of action pertaining to the petition, ((to)) to withdraw affected waters under RCW 90.54.050(2), or to reserve water(s). If reservation is deemed appropriate, the director shall take action to adopt a regulation or amend an existing regulation established pursuant to chapter 173-500 WAC to reserve water for a future public water supply for the general geographic area described in the petition or for a general area the director determines appropriate. (RCW 90.54.050 mandates the department to conduct a public hearing, prior to adoption of a rule to withdraw or to reserve in each county in which waters relating to the rule are located.)

The amount of the reservation shall be determined by the director and may be more or less than the amount requested in the petition. The total reservation amount may be prorated to specific subareas of service in the proposed development area. Appropriate map may be appended to regulation.

AMENDATORY SECTION (Amending Order DE 75-32, filed 3/10/76)

WAC 173-590-140 RESERVATION SUBJECT TO REVIEW AND CHANGE. From time to time, any reservation established under this chapter shall be reviewed and, when it appears appropriate to the department in implementing RCW 90.54.050, modified. No change shall be made without consultation of interested parties. The water resource program and the coordinated

water system plan shall be reviewed (~~(, and changed as necessary, at least once every ten years)~~) whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE 75-32, filed 3/10/76)

WAC 173-590-180 APPEAL. The procedures hereof relate solely to rule-making activity of the department and are designed to obtain information to assist the department in determining when waters should be reserved as provided in RCW 90.54.050. Actions conducted under this chapter do not relate to contested cases within the meaning of the Administrative Procedure Act, chapter 34.04 RCW.

~~((Regulations establishing reservations adopted hereunder shall be subject to review as provided in RCW 34.04.070 and 34.04.080.))~~

NEW SECTION

WAC 173-590-190 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE-86-16, filed 7/14/86)

WAC 173-591-060 PETITION RECEIVED—NOTICE. A petition requesting the reservation of ground waters in Thurston County pursuant to chapter 173-590 WAC, and a coordinated water system plan approved by the secretary of the department of social and health services were received and accepted by the department. Notice of the receipt of proper petition was published in a newspaper of general circulation in Thurston County for two consecutive weeks, and the director sent notice thereof to the directors of the departments of fisheries, ~~((game))~~ wildlife, and social and health services for the purpose of soliciting their comments.

AMENDATORY SECTION (Amending Order DE-86-16, filed 7/14/86)

WAC 173-591-070 RESERVATION. (1) The department, having received a final environmental impact statement dated January 16, 1985, and having conducted an investigation of the surrounding impacts of the proposed reservation and having heard comments solicited through the notice of receipt of petition and having found ground waters to be generally available for the purposes of the reservation and that the proposed use of the ground waters will result in the maximum net benefit for the people of the state, does hereby reserve portions of those ground waters for future public water supplies in Thurston County.

(2) The department finds that to provide peaking capacity on a daily basis the appropriate amount of the reservation shall be 40,589 gallons per minute, limited to a maximum annual withdrawal of 22,931

acre-feet/year, provided that the total annual withdrawal and diversion from all sources shall not exceed 48,225 acre-feet/year. This is intended to serve the estimated population of 288,092 in fifty years. The amount of this reservation shall be reviewed by the department ~~((at least once every ten years to ensure that public water supplies are provided for the entire reservation period))~~ whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

(3) A map showing the reservation area boundary is shown in Figure II-1 of the coordinated water system plan for Thurston County, dated May 1982, as approved by the department of social and health services for the purposes of reserving water for future public water supply purposes, and shown as the reservation area boundary map in WAC 173-591-130, Illus. 1.

(4) Due to the nature of the geographic distribution of the ground waters to be reserved and the development patterns that are anticipated in Thurston County, the reserved ground waters are intended to be beneficially utilized from the unconsolidated materials overlying bedrock, and are prorated to the subareas designated in Figure V-1 of the coordinated water system plan for Thurston County, dated May 1982, as approved by the department of social and health services for the purpose of reserving water for future public water supply purposes, and shown as the reservation source of supply subareas map in WAC 173-591-130, Illus. 2. The reserved ground waters are generally prorated to the reservation source of supply subareas as follows, with the totaled reserved quantity to be obtained from within the boundary area.

Source Location	Reservation Quantities	
	Instantaneous (GPM)	Annual (Af/Yr)
Airport	2,500	1,486
Allison Springs	2,000	1,888
Black Lake	2,000	1,888
Deschutes Valley	1,969	1,170
Hawks Prairie	7,000	4,160
McAllister Springs	2,000	—
Mottman Indust. Park	2,000	1,888
Southeast	14,426	8,573
Total	40,589	22,931

(5) The priority date of any permit issued pursuant to RCW 90.03.290 and 90.44.070 which authorizes withdrawal and use of public water for public water supply pursuant to the reservation provided in subsection (2) of this section shall be the effective date of this regulation.

(6) A record of all ground water permits issued pursuant to the reservation provided in subsection (2) of this section shall be maintained by the department in a manner that will readily show the quantities that have been allocated from the reserved ground waters for each subarea identified in subsection (4) of this section and the quantities of unappropriated ground waters that may remain in the reserved status available for appropriation.

(7) No permit issued as described in subsection (5) of this section shall authorize a withdrawal that causes a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of a senior ground water right holder.

NEW SECTION

WAC 173-591-115 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE-86-16, filed 7/14/86)

WAC 173-591-120 REGULATION REVIEW. ~~((This chapter shall be reviewed, and changed as necessary, at least once every ten years.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DE-86-17, filed 7/14/86)

WAC 173-592-060 PETITION RECEIVED—NOTICE. A revised petition, dated August 12, 1985, requesting the reservation of ground waters in Clark County pursuant to chapter 173-590 WAC, and a coordinated water system plan approved by the secretary of the department of social and health services, dated March, 1983, were received and accepted by the department. Notice of the receipt of proper petition was published in a newspaper of general circulation in Clark County for two consecutive weeks, and the director sent notice thereof to the directors of the departments of fisheries, ~~((game))~~ wildlife, and social and health services for the purpose of soliciting their comments.

AMENDATORY SECTION (Amending Order DE-86-17, filed 7/14/86)

WAC 173-592-070 RESERVATION. (1) The department, having heard comments solicited through the notice of receipt of petition and having reviewed a final declaration of nonsignificance under the authority of WAC 197-11-340 (State Environmental Policy Act) and having found ground waters to be generally available for the purposes of the reservation and that the proposed use of the ground waters will result in the maximum net benefit for the people of the state, does hereby reserve portions of those ground waters for future public water supplies in Clark County.

(2) The department finds that the appropriate amount of the reservation shall be 97,000 gallons per minute and 65,300 acre-feet/year. This is intended to serve the estimated population of 629,200 in fifty years. The amount of this reservation shall be reviewed by the department in consultation with local government ~~((at least once every ten years to ensure that adequate public water supplies are provided for the entire reservation period))~~ whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

(3) A map showing the reservation source of supply boundaries is shown in Attachment 1A of the revised

petition, dated August 12, 1985, requesting reservation of ground water in Clark County for future public water supplies. The map showing the reservation source of supply area boundary is incorporated in this regulation in WAC 173-592-120, Illus. 1.

(4) Waters reserved herein may be utilized within the geographical boundaries of Clark County consistent with the department of social and health services approved coordinated water system plan, dated March 1983.

(5) Due to the nature of the geographic distribution of the ground waters to be reserved in Clark County, the reserved ground waters are intended to be beneficially utilized from the following aquifers, as identified in Attachment 1A of the revised petition, dated August 12, 1985:

- 1A Columbia River Alluvium
- 1B-2B Upper Troutdale
- 1C Sandy River Mudstone

(6) The priority date of any permit issued pursuant to RCW 90.03.290 and 90.44.060 which authorizes withdrawal and use of public water for public water supply pursuant to the reservation provided in subsection (2) of this section shall be the effective date of this regulation.

(7) A record of all ground water permits issued pursuant to the reservation provided in subsection (2) of this section shall be maintained by the department in a manner that will readily show the quantities that have been allocated from the reserved ground waters, and the quantities of unappropriated ground waters that may remain in the reserved status available for appropriation.

(8) No permit issued as described in subsection (6) of this section shall authorize a withdrawal that causes a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of a senior ground water right holder.

AMENDATORY SECTION (Amending Order DE-86-17, filed 7/14/86)

WAC 173-592-110 REGULATION REVIEW. ~~((This chapter shall be reviewed, and changed as necessary, at least once every ten years.))~~ The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

NEW SECTION

WAC 173-592-115 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-596-010 BACKGROUND.
- WAC 173-596-015 PURPOSE.

WAC 173-596-020 DEFINITIONS.

WAC 173-596-025 CONDITIONS TO BE INCLUDED IN PERMITS INVOLVING SUBSTANTIAL WITHDRAWALS OF PUBLIC WATERS.

WAC 173-596-030 REGIONAL WATER SUPPLY AND MULTIPURPOSE PROJECT CONSIDERATIONS.

WAC 173-596-035 PROCESSING OF APPLICATIONS.

WAC 173-596-040 WATER RIGHT OF REGIONAL OR STATEWIDE SIGNIFICANCE.

WAC 173-596-045 CONSERVATION AND MANAGEMENT PROGRAM.

WAC 173-596-050 MONITORING PROGRAM.

WAC 173-596-055 EFFECT ON EXISTING RIGHTS AND LAWS AND PUBLIC ENTITIES.

WAC 173-596-060 ENVIRONMENTAL IMPACT STATEMENT.

WAC 173-596-065 REVIEW OF REGULATORY ORDERS.

AMENDATORY SECTION (Amending Rule 1, filed 3/23/60)

WAC 508-12-010 REGULATION OF WATER RIGHT DIVERSIONS—PERSONNEL. Regulation and control of waters according to rights thereto, shall be made through watermasters and stream patrolmen, or a staff member of the ~~((division of water resources))~~ department of ecology. Chapter 90.08 RCW and RCW 43.21.130.

AMENDATORY SECTION (Amending Rule 2, filed 3/23/60)

WAC 508-12-020 REGULATION OF WATER RIGHT DIVERSIONS—REGULATION OF UNINCORPORATED PARTNERSHIP DITCHES. Watermasters shall not attempt to regulate water beyond the points of diversion from the natural stream on unincorporated partnership ditches. Such regulations may be carried on by ditch patrolmen as outlined under RCW ~~((90.28.130))~~ 90.03.440. When approved by the ~~((supervisor))~~ department of ecology and water users a district watermaster may serve as a stream or ditch patrolman.

AMENDATORY SECTION (Amending Rule 3, filed 3/23/60)

WAC 508-12-030 REGULATION OF WATER RIGHT DIVERSIONS—CONTROLLING WORKS—MEASURING DEVICES. Where controlling works or measuring devices are not installed or maintained to the satisfaction of the ~~((supervisor))~~ department of ecology, ~~((he shall give))~~ proper notice shall be given to the owner to install or repair such controlling works or measuring device. This notice shall allow not less than ten days time to make necessary repairs or installations. In the event the work outlined in the notice is not completed in the specified time, the diversion shall be closed to further flow of water, until such time as the notice has been fully complied with.

AMENDATORY SECTION (Amending Rule 5, filed 3/23/60)

WAC 508-12-050 REGULATION OF WATER RIGHT DIVERSIONS—CLOSURE OF DIVERSIONS. The watermaster or a representative of the ~~((division of water resources))~~ department of ecology, shall close such diversions for noncompliance ~~((upon))~~ by issuing an order ~~((of the supervisor))~~.

AMENDATORY SECTION (Amending Rule 6, filed 3/23/60)

WAC 508-12-060 REGULATION OF WATER RIGHT DIVERSIONS—PENALTY FOR OPENING. Any water user opening a diversion after it has been closed or posted, under the above rules, shall be guilty of a misdemeanor under chapter ~~((90.32))~~ 90.03 RCW.

AMENDATORY SECTION (Amending Rule 8, filed 3/23/60)

WAC 508-12-080 DETERMINATION OF EXISTING RIGHTS TO THE USE OF WATER. Upon the filing of a petition by one or more persons requesting the rights to the use of the waters of a stream or other source of water, the ~~((supervisor))~~ department of ecology shall conduct a reconnaissance survey for the purpose of determining whether or not the interests of the public can best be served by the adjudication of the individual rights thus involved. If ~~((, in his discretion, the proceedings should be))~~ an adjudication proceeding is instigated, ~~((he))~~ the department of ecology shall determine the description of lands to be included as well as the record ownerships. Each owner and interested party will be made a party to the proceedings and a lis pendens will be filed with the county auditor. (RCW ~~((90.12.010))~~ 90.03.110 and ~~((90.12.020))~~ 90.03.120.)

AMENDATORY SECTION (Amending Rule 10, filed 3/23/60)

WAC 508-12-100 SURFACE WATER APPROPRIATION PROCEDURE—APPLICATIONS FOR PERMIT—FORMS. Applications for permit to appropriate surface water shall be made on forms provided by the ~~((office of the supervisor of the division of water resources))~~ department of ecology. (Supplements paragraph 5, RCW 43.21.130.)

AMENDATORY SECTION (Amending Rule 11, filed 3/23/60)

WAC 508-12-110 SURFACE WATER APPROPRIATION PROCEDURE—NUMBER OF APPLICATIONS. It shall be the general rule that an application must be filed for each separate source of water. In special instances one application may cover more than one source of water such as, a group of springs in close relationship to each other and with no intervening property ownership; and, to divert from two or more streams whose confluence is upon lands of the applicant; and, where a common distribution system may be employed. The amount, point of diversion, and purpose of use from each source must be indicated in the application.

AMENDATORY SECTION (Amending Rule 12, filed 3/23/60)

WAC 508-12-120 SURFACE WATER APPROPRIATION PROCEDURE—MAPS OR SKETCHES. (~~Three copies of maps or sketches~~) A map must accompany the application showing source of supply, point of diversion, tie to a legal land corner, and general plan of the proposed development. If for irrigation, it must clearly show the lands to be irrigated. For small projects, maps or sketches prepared by the applicant on forms provided by this office will be acceptable if legible and accurate. For larger projects, maps on any reasonable scale prepared by engineers in planning the project may be required. (Supplemental to RCW (~~90-20-020~~) 90.03.260.)

AMENDATORY SECTION (Amending Rule 15, filed 3/23/60)

WAC 508-12-150 SURFACE WATER APPROPRIATION PROCEDURE—AFFIDAVIT OF PUBLICATION OF NOTICE. An affidavit of publication of the notice of water right application executed by the publisher must be filed with the (~~supervisor~~) department of ecology as proof of due notice to the public. (RCW (~~90-20-040~~) 90.03.280.)

AMENDATORY SECTION (Amending Rule 16, filed 3/23/60)

WAC 508-12-160 SURFACE WATER APPROPRIATION PROCEDURE—NO ACTION ON PERMITS ALLOWABLE PRIOR TO 30 DAYS AFTER LAST PUBLICATION. No action shall be taken toward issuance of a permit or granting a petition for change in point of diversion, purpose or place of use until 30 days after date of last publication of notice as provided in RCW (~~90-20-040~~) 90.03.280 and (~~90-28-090~~) 90.03.380. In all instances, RCW (~~90-04-040(12)~~) 90.03.470(12) shall apply.

AMENDATORY SECTION (Amending Rule 17, filed 3/23/60)

WAC 508-12-170 SURFACE WATER APPROPRIATION PROCEDURE—PROTESTS OR OBJECTIONS. (1) Protests or objections to granting a permit or petition for change must be submitted within the prescribed 30 day period and must include a statement of the basis for said objections.

(2) All protests or objections will be thoroughly investigated by (~~a representative of this office and the supervisor, at his discretion, may hold a hearing if deemed in the public interest to do so; at which hearing the administrative rules for procedure on hearings as adopted by the department of conservation shall govern~~) the department of ecology which may hold a meeting among the parties for fact-finding purposes.

AMENDATORY SECTION (Amending Rule 18, filed 3/23/60)

WAC 508-12-180 SURFACE WATER APPROPRIATION PROCEDURE—AMENDMENTS OR

TRANSFERS. Applications for amendments or transfers shall be made on forms provided by the (~~supervisor of water resources~~) department of ecology. (Supplements RCW (~~90-28-090~~) 90.03.380.)

AMENDATORY SECTION (Amending Rule 19, filed 3/23/60)

WAC 508-12-190 SURFACE WATER APPROPRIATION PROCEDURE—AMENDMENTS AS TO SOURCE, QUANTITY, ETC. (1) In the event an applicant or permittee should desire to amend the terms of his application or permit regarding source, quantity, point of diversion, purpose, or place of use, the procedure shall be as outlined in RCW (~~90-28-090~~) 90.03.380 excepting that no certificate of change will issue but the amendments shall be incorporated in the terms of the permit.

(2) Amendment of a permit may be made without affecting priority, only after full consideration of the proposed changes in accordance with the provisions outlined in RCW (~~90-20-060~~) 90.03.290.

AMENDATORY SECTION (Amending Rule 20, filed 3/23/60)

WAC 508-12-200 SURFACE WATER APPROPRIATION PROCEDURE—DIVISION OF LAND OWNERSHIP BEFORE CERTIFICATE ISSUED. Where a permit has been issued to a person and the land to which the water right is to become appurtenant has been divided before the issuance of a water right certificate, separate certificates may be issued to each holder of land with the proper share of the water allotted, providing assignments of each share are recorded (~~in this office~~) with the department of ecology. (Supplements RCW (~~90-20-100~~) 90.03.380.)

AMENDATORY SECTION (Amending Rule 21, filed 3/23/60)

WAC 508-12-210 SURFACE WATER APPROPRIATION PROCEDURE—SEASONAL PERMITS. Seasonal permits for change of point of diversion, purpose and/or place of use of water, shall be in writing and signed by the (~~supervisor or one of his duly authorized deputies~~) director of the department of ecology or a duly authorized representative. (RCW (~~90-28-100~~) 90.03.390.)

AMENDATORY SECTION (Amending Rule 22, filed 3/23/60)

WAC 508-12-220 GROUND WATER APPROPRIATION PROCEDURE—APPLICABILITY OF FOREGOING RULES. The general application of rules numbered WAC (~~134-12-090~~) 508-12-080 through (~~134-12-210~~) 508-12-210 inclusive on surface water applications, shall also apply to the ground water appropriation procedure.

AMENDATORY SECTION (Amending Rule 24, filed 3/23/60)

WAC 508-12-240 GROUND WATER APPROPRIATION PROCEDURE—WHERE PROPOSED CONSTRUCTION IS NEAR SURFACE WATER SUPPLY. Where a proposed well is to be constructed near a lake, stream, or spring, which is heavily or fully appropriated, the ((supervisor)) department of ecology may specify a minimum distance between the well location and the surface water supply, or, require that the well casing be installed in such a manner as to insure a break in hydraulic continuity between the well and the shallow ground waters contributing to the surface water supply.

AMENDATORY SECTION (Amending Rule 25, filed 3/23/60)

WAC 508-12-250 GROUND WATER APPROPRIATION PROCEDURE—WHERE WELLS PENETRATE ARTESIAN WATER ZONES. Wells penetrating artesian water zones: RCW 90.44.070.

(1) Wells taking water from artesian zones shall contain water-tight casings from the ground surface down through and properly sealed into the confining layer.

(2) Issuance of permits to take water from an artesian zone shall not be stopped when existing wells penetrating said artesian zone no longer flow at ground surface; rather, a reasonable seasonal lowering of the water table will be permissible to more fully utilize the reservoir capacity of the aquifer.

(3) Where the waste of water through improperly constructed wells has been found and wasting of said water is depriving others of water to which they are entitled, or causing an unreasonable drop in the water table, or threatens permanent damage to the aquifer, the ((supervisor)) department of ecology shall direct the owner to make necessary repairs to correct the situation. (RCW 90.44.120.)

AMENDATORY SECTION (Amending Rule 28, filed 3/23/60)

WAC 508-12-280 STORAGE DAMS—CONSTRUCTION PERMIT. RCW ((90.28.060)) 90.03.350 provides that any person intending to construct a dam or controlling works for the storage of 10 acre-feet or more of water shall, before beginning construction, submit plans and specifications thereof to the ((supervisor)) department of ecology and secure his approval as to its safety.

The plans and specifications must be prepared by a properly qualified professional engineer and carry his signature and seal. They must also be submitted in duplicate such that one copy is retained in this office and the other approved and returned to the applicant. No special plans will be required unless those submitted are found to be incomplete. The minimum fee for examination and approval of plans shall be \$10.00.

NEW SECTION

WAC 508-12-390 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 508-12-400 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 508-12-410 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 508-12-070 REGULATION OF WATER RIGHT DIVERSIONS—OBJECTIONS TO REGULATIONS OR ORDERS—APPEALS.

NEW SECTION

WAC 508-14-040 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 508-14-050 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

AMENDATORY SECTION (Amending Order DWR 69-9, filed 11/6/69)

WAC 508-64-010 BACKGROUND AND PURPOSE OF REGULATION. With the passage of time and issuance of an additional number of water rights in each year, competition for rights to use of our limited water resources increases. Conflicts also develop where uses presently authorized compete for water supplies which may vary on seasonal or annual bases, due to changes in hydrologic conditions. For these reasons it becomes necessary to manage our state's water resources so as to insure that those entitled to make beneficial use of water neither waste water in exercising their rights

nor use waters by withdrawal or diversion thereof in amounts in excess to that which they are entitled.

One of the tolls of water management vested in the department of (~~water resources~~) ecology is the power to require that those diverting and/or withdrawing waters of the state, both surface and ground, provide a measuring device so as to provide for accurate measurement of waters so utilized. See RCW 90.03.360 and 90.44.020. It has been increasingly apparent that a satisfactory water management program can be carried out only if surface and ground water withdrawals are closely monitored and accurately measured.

Under RCW 43.27A.090(11), the department of (~~water resources~~) ecology is authorized to adopt such regulations as are necessary to carry out the provisions of the surface and ground water statutes of chapters 90.03 and 90.44 RCW. Acting under the authority of RCW 43.27A.090(11) and 90.03.360, the following regulation is adopted for the purpose of setting forth:

- (1) The specifications for meters installed on water withdrawal facilities for pressure systems;
- (2) The installation requirements for a meter;
- (3) The operation and maintenance requirements for a meter; and
- (4) The procedures the department of (~~water resources~~) ecology will follow in determining when installation of a meter shall be required and how notification of this requirement shall be given to the water user.

AMENDATORY SECTION (Amending Order DWR 69-9, filed 11/6/69)

WAC 508-64-030 METER INSTALLATION REQUIREMENTS. Meters required to be installed, as provided under WAC 508-64-010, shall meet the following installation requirements:

- (1) The meter shall be installed in accordance with manufacturer specifications and in such a manner that there shall be a full pipe of water at all times when water is being withdrawn.
- (2) Straightening vanes shall be installed in the pipe in the manner recommended by the manufacturer of the meter, or vanes may be part of the tube furnished with tube-type meters or separate units for installation in the discharge pipe upstream of the meter.
- (3) There shall be no turnouts or diversions between the source of water and the meter installation, except for faucet or other similar small outlets.
- (4) The meter shall be placed in the pipe not less than five pipe diameters downstream from any valves, elbows, or other obstructions which might create turbulent flow, or as recommended by the meter manufacturer. There shall also be at least one pipe diameter of unobstructed flow on the downstream side of the meter.
- (5) The meter and register shall not be enclosed in a building or structure in such a manner as to prevent access to the register. The register or meter shelter may be equipped with a lock to prevent tampering or breakage, provided that a key is made available to authorized employees of the department of (~~water resources~~) ecology at the place of business during normal working hours or at the residence in case of private parties.

(6) Provisions shall be made for removal and rating of the meter in accordance with the manufacturer's specifications.

(7) In those cases where wells are authorized for the purpose of supplementing surface waters with water from combined sources not to exceed a total quantity, both sources of water shall be metered.

(8) In the case of artesian wells which flow at times, the meter shall be installed in a manner which will measure both pumped and flowing discharge.

(9) The owner shall cause the department of (~~water resources~~) ecology to be notified within ten days from the installation of the meter.

(10) The meter installation shall be inspected and approved by the department of (~~water resources~~) ecology.

AMENDATORY SECTION (Amending Order DWR 69-9, filed 11/6/69)

WAC 508-64-040 METER OPERATION AND MAINTENANCE. Meters installed hereunder shall be operated and maintained in accordance with the following:

- (1) No withdrawal or diversion of water shall be made unless the meter installation has been inspected and approved by the department of (~~water resources~~) ecology and is in proper operating condition.
- (2) Meters shall be repaired and returned to operation as soon as possible upon discovery of a malfunctioning meter. The department of (~~water resources~~) ecology shall be notified immediately of such malfunctioning meter. In all cases the meter reading immediately prior to repair and the reading of the new or repaired meter shall be submitted to the department of (~~water resources~~) ecology on forms provided within ten days following reinstallation of the meter and/or meter head.
- (3) Water use data shall be submitted to the department of (~~water resources~~) ecology on forms provided for that purpose at such times as may be required by the department.
- (4) Meters shall be kept clear of debris or any other material or vegetative growth which would impede their operation. All meters shall be lubricated as specified by the manufacturer.
- (5) Meters which are not properly operated and maintained shall be repaired or replaced upon order of the department of (~~water resources~~) ecology within the time specified within said order.

AMENDATORY SECTION (Amending Order DWR 69-9, filed 11/6/69)

WAC 508-64-050 METER—WHEN REQUIRED. Meters shall be installed on water diversion and/or withdrawal facilities existing prior to or constructed subsequent to the effective date hereof whenever it shall appear to the (~~assistant director of the division of water management~~) department of ecology that one of the following conditions exist:

- (1) The need exists to accurately measure the instantaneous rate of diversion (withdrawal) and/or the total water use by a facility operating over a specified period of time, for purposes of determining if the quantities of

water utilized are within the limits of the established rights, or

(2) Studies, inventories and investigations of stream and/or aquifer systems are being conducted by the department of ~~((water resources))~~ ecology for purposes of determining location, extent, depth, volume and flow of said waters for planning, utilization and management purposes; and accurate determination of existing diversion and/or withdrawals is necessary for proper conduct of such studies, inventories and investigations, or

(3) When it has been established by the department of ~~((water resources))~~ ecology, or there is reasonable reason to believe that a mining of ground waters is taking place within a defined area and that an accurate determination as to the extent of existing use of ground waters is necessary to properly manage such use for the purpose of maintaining a reasonable or feasible pumping lift (or reasonable or feasible reduction of artesian pressure) within the defined area, or

(4) Conflict in use under established rights exist and accurate determination of the rate of diversion (withdrawal) and/or volumetric use over a given period of time is necessary for a proper resolution of the conflict.

The requirement that a meter shall be installed on an existing facility shall be given by written notice served upon the owner or person having control thereof, as appropriate, personally or by registered or certified mail. Said notice shall set forth that a meter shall be installed in compliance with the provisions of this chapter and the date by which the meter shall be installed. All meters required to be installed hereunder shall conform to the provisions of WAC 508-64-020 through 508-64-040.

AMENDATORY SECTION (Amending Order DWR 69-9, filed 11/6/69)

WAC 508-64-060 UNAUTHORIZED DIVERSION OR WITHDRAWALS—ENFORCEMENT AGENT. No waters shall be diverted and/or withdrawn from facilities which do not comply with orders issued pursuant to WAC 508-64-050. ~~((Enforcement of orders issued under WAC 508-64-050 shall be carried out through the issuance of regulatory orders as provided in section 7, chapter 284, Laws of 1969 ex. sess.))~~ In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

NEW SECTION

WAC 508-64-070 APPEALS. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 508-64-080 REGULATION REVIEW. The department of ecology shall initiate a review of the rules established in this chapter whenever new information,

changing conditions, or statutory modifications make it necessary to consider revisions.

WSR 88-13-038
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Massage)
[Order PM 739—Filed June 9, 1988]

Be it resolved by the Washington State Board of Massage, acting at Seattle, Washington, that it does adopt the annexed rules relating to adding new sections WAC 308-51A-010, 308-51A-020, 308-51A-030, 308-51A-040, 308-51A-050 and 308-51A-060.

This action is taken pursuant to Notice No. WSR 88-08-088 filed with the code reviser on April 6, 1988. 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 18.108-.025 which directs that the Board of Massage has authority to implement the provisions of chapter 18.108 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 May 18, 1988.

By Susan Rosen
Chairperson

Chapter 308-51A WAC
EDUCATION

- WAC
- 308-51A-010 Definitions.
- 308-51A-020 Approval of school, program, or apprenticeship program.
- 308-51A-030 Scope and purpose.
- 308-51A-040 Training.
- 308-51A-050 Curriculum—Academic standards—Faculty—Student clinic.
- 308-51A-060 Health, sanitation, and facility standards.

NEW SECTION

WAC 308-51A-010 DEFINITIONS. For the purpose of administering chapter 18.108 RCW, the following terms shall be considered in the following manner:

- (1) A massage school is an institution which has the sole purpose of offering training in massage therapy.
- (2) A massage program is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.
- (3) An apprentice is defined, for purposes of this chapter, as one who has successfully completed:

(a) One hundred thirty hours of instruction in anatomy, physiology, and kinesiology including palpation, range of motion and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of instruction in pathology, including indications and contraindications to massage therapy and palpations.

(c) Certification in American Red Cross first aid and American Heart Association CPR or the equivalent.

The above courses must be successfully completed within five years immediately preceding entry into an apprenticeship agreement. The apprentice then shall receive complete training in:

(i) Hydrotherapy (fifteen hours);

(ii) Theory and practice of massage therapy (two hundred fifty hours) at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic; and

(iii) Clinical practices (fifty-five hours), at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws. Training in hydrotherapy, theory and practice of massage therapy, and clinical practices shall be completed in no less than six months or longer than two years from the date of entry into an apprenticeship program.

(4) A massage apprenticeship is training in massage therapy which is offered by a qualified massage practitioner to an apprentice on the basis of an apprenticeship agreement between the massage practitioner and the apprentice. Such agreement shall comply with the educational standards as set forth in this chapter. A qualified massage practitioner is defined as a person that shall have not less than three years full-time experience in the practice of massage immediately preceding the function as an apprenticeship trainer of massage therapy in an apprenticeship agreement and shall be licensed under this chapter and currently engaged in the practice of massage.

Hereinafter, qualified massage practitioner is referred to as apprenticeship trainer, and apprenticeship program is referred to as program.

NEW SECTION

WAC 308-51A-020 APPROVAL OF SCHOOL, PROGRAM, OR APPRENTICESHIP PROGRAM. The board may accept proof of AMTA, (American Massage Therapy Association), approval of a school or program in lieu of the requirements contained in this chapter. Approval in this manner may be requested on a form provided by the department. The board will consider for approval any school, program, or apprenticeship program which meets the requirements as outlined in this chapter.

(1) Approval of any other school or program may be requested on a form provided by the department.

(2) Application for approval of a school or program, shall be made by the authorized representative of the

school or the administrator of the apprenticeship agreement.

(3) The authorized representative of the school or the administrator of the apprenticeship program may request approval of the school or program, as of the date of the application or retroactively to a specified date.

(4) The application for approval of a school or program shall include, but not be limited to, documentation required by the board pertaining to: Syllabus, qualifications of instructors, facilities, outline of curriculum plan specifying all subjects and length in hours such subjects are taught, class objectives, and a sample copy of one of each of the following exams: Anatomy, physiology, and massage therapy.

(5) Any school or program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete these requirements before being considered by the board for approval.

(6) The board will evaluate the application and, if necessary, conduct a site inspection of the school or program, prior to granting approval by the board.

(7) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification to the application.

(8) In the event the department denies an application or grants conditional approval, the authorized representative of the applicant's school or program may request a review within thirty days of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party may obtain review only by submitting a new application.

(9) The authorized representative of an approved school or program or the administrator of an apprenticeship agreement shall notify the board of significant changes with respect to information provided on the application within sixty days.

(10) The board may inspect or review an approved school or program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply with the requirements of law, administrative rules, or representations in the application.

(11) The authorized representative of a school or administrator of an agreement must immediately correct the deficiencies which resulted in withdrawal of the board's approval.

NEW SECTION

WAC 308-51A-030 SCOPE AND PURPOSE. (1) The minimum educational requirements for licensure to practice massage therapy in Washington is successful completion of a course of study from a massage school or program approved by the board.

(2) The purpose of this chapter is to provide a set of standards and procedures by which massage schools or programs may obtain approval by the board in order that graduates of those schools or programs may be permitted to take examinations for licensure.

NEW SECTION

WAC 308-51A-040 TRAINING. The training in massage therapy shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training in massage therapy. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(1) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(2) Fifty hours of pathology including indications and contraindications to massage therapy and palpations.

(3) Two hundred fifty hours of theory and practice of massage therapy, at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic.

(4) Fifteen hours of hydrotherapy.

(5) Fifty-five hours of clinical practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

NEW SECTION

WAC 308-51A-050 CURRICULUM—ACADEMIC STANDARDS—FACULTY—STUDENT CLINIC. (1) The curriculum of the school or program shall be designed and presented to meet or exceed the requirement of five hundred hours.

(2) Academic standards. The school or apprenticeship trainer shall regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the program and graduation shall be dependent on mastery of the knowledge and skills presented in the program.

(3) Faculty. Apprenticeship trainers and faculty members shall be qualified by training and experience to give effective instruction in the subject(s) taught. The apprenticeship trainer and faculty should develop and evaluate the curriculum instructional methods and facilities; student discipline, welfare, and counseling; assist in the establishment of administrative and educational policies, and scholarly and professional growth. Schools or programs shall not discriminate on the basis of sex, race, age, color, religion, physical handicap, or national or ethnic origin in the recruitment and hiring of faculty.

(4) Student clinic (optional program). The clinical facilities shall be adequate in size, number, and resources to provide for student practice of massage therapy on the general public. There shall be properly equipped rooms for consultations, massage therapy, and equipment as required in the practice of massage. A faculty

member who is a licensed massage practitioner and adequately experienced in massage therapy must be present in the clinic at all times the clinic is open and in direct supervision of, and have final decision in, the massage therapy which is rendered to clients by students.

NEW SECTION

WAC 308-51A-060 HEALTH, SANITATION, AND FACILITY STANDARDS. All programs will have adequate facilities and equipment available for students learning massage therapy. All facility equipment will be maintained in accordance with local rules and ordinances in addition to those imposed by chapter 308-51 WAC. Instructional and practice equipment shall be similar to that found in common occupational practice. An adequate reference library, appropriate to the subjects being taught, shall be available.

WSR 88-13-039**ADOPTED RULES****ATTORNEY GENERAL'S OFFICE**

[Order 88-7—Filed June 9, 1988]

I, Kenneth O. Eikenberry, Attorney General of Washington, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New WAC 44-10-220 Resale of motor vehicle determined or adjudicated as having a serious safety defect.

New WAC 44-10-230 Resale of motor vehicle determined or adjudicated as having a nonconformity.

This action is taken pursuant to Notice No. WSR 88-09-062 filed with the code reviser on April 20, 1988. 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 19.118.061 and 19.118.080 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 June 9, 1988.

By Kenneth O. Eikenberry
Attorney General

NEW SECTION

WAC 44-10-220 RESALE OF MOTOR VEHICLE DETERMINED OR ADJUDICATED AS HAVING A SERIOUS SAFETY DEFECT. (1) Resale of a motor vehicle in the State of Washington, pursuant to RCW 19.118.061(1), must conform to the following procedures:

(a) A manufacturer, its agent or motor vehicle dealer to whom a motor vehicle with a serious safety defect is returned, shall affix a "Lemon Law Resale Notice" to the lower center of the front windshield of the vehicle in

a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law Resale Notice" will set forth that the vehicle was determined to have a serious safety defect and the specific serious safety defect(s) shall be enumerated. The "Lemon Law Resale Notice" shall be supplied by the Attorney General's Office. The "Lemon Law Resale Notice" may only be removed by the manufacturer, its agent or motor vehicle dealer upon receipt of a signed copy of the Consumer Disclosure form.

(b) The Consumer Disclosure form sets forth the specific serious safety defect found in the motor vehicle. The motor vehicle dealer shall ensure that the purchaser of a motor vehicle signs the Consumer Disclosure form and that a signed copy is delivered to the Attorney General's Office. The purchaser shall receive a copy of the signed disclosure form.

(c) The manufacturer must ensure that a copy of the signed Certificate of Correction and Warranty is received by the motor vehicle dealer that is to sell the vehicle, the Vehicle Service Division of the Washington State Department of Licensing and the State Attorney General's Office. Upon sale of the vehicle, the motor vehicle dealer shall provide a copy of the Certificate of Correction and Warranty to the consumer.

(2)(a) If a manufacturer delivers a motor vehicle that has been found to have a serious safety defect under the Lemon Law, to a motor vehicle dealer outside of Washington State, the manufacturer shall fill out an Out of State Disposition Postcard indicating the Vehicle Identification Number and the destination state, and send the postcard to the Attorney General's Office.

(b) If a motor vehicle dealer in Washington State has received, for purposes of resale, a motor vehicle that has been found to have a Serious Safety Defect, and such dealer sells, delivers or disposes of such vehicle outside of Washington State, the motor vehicle dealer shall fill out an Out of State Disposition Postcard indicating the Vehicle Identification Number and destination state, and send the postcard to the Attorney General's Office.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 44-10-230 RESALE OF MOTOR VEHICLE DETERMINED OR ADJUDICATED AS HAVING A NONCONFORMITY. (1) Resale of a motor vehicle in the State of Washington, pursuant to RCW 19.118.061(3) and 19.118.061(4), must conform to the following procedures:

(a) A manufacturer, its agent or motor vehicle dealer to whom a motor vehicle with a nonconformity is returned shall affix a "Lemon Law Resale Notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law Resale Notice" will set forth that the vehicle was determined to have a nonconformity and the specific nonconformity(ies) shall be enumerated. The "Lemon Law Resale Notice" shall be supplied by the Attorney General's Office. The "Lemon

Law Resale Notice" may only be removed by the manufacturer, its agent or motor vehicle dealer upon receipt of a signed copy of the Consumer Disclosure form.

(b) The Consumer Disclosure form sets forth the specific nonconformity found in the motor vehicle. The motor vehicle dealer shall ensure that the purchaser of a motor vehicle signs the Consumer Disclosure form and that a signed copy is delivered to the Attorney General's Office. The purchaser shall receive a copy of the signed disclosure form.

(c) The manufacturer, if it chooses to have the nonconformity corrected, must ensure that a copy of the signed Certificate of Correction and Warranty is received by the motor vehicle dealer that is to sell the vehicle, the Vehicle Services Division of the Washington State Department of Licensing and Attorney General's Office. Upon sale of the vehicle, the motor vehicle dealer shall provide a copy of the Certificate of Correction and Warranty to the consumer.

(2)(a) If a manufacturer delivers a motor vehicle that has been found to have a nonconformity under the Lemon Law, to a motor vehicle dealer outside of Washington State, the manufacturer shall fill out an Out of State Disposition Postcard indicating the Vehicle Identification Number and the destination state, and send the postcard to the Attorney General's Office.

(b) If a motor vehicle dealer in Washington State has received, for purposes of resale, a motor vehicle that has been found to have a nonconformity, and such dealer sells, delivers or disposes of such vehicle outside of Washington State, the motor vehicle dealer shall fill out an Out of State Disposition Postcard indicating the Vehicle Identification Number and destination state, and send the postcard to the Attorney General's Office.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-13-040

PROCLAMATION NO. 3

OFFICE OF THE GOVERNOR

WHEREAS, on the 13th day of December 1957, at the request of the Confederated Tribes of the Chehalis Reservation, 2nd day of December, 1957, at the request of the Quileute Indian Reservation, 7th day of July, 1963, at the request of the Swinomish Tribal Community by resolution, a Proclamation was issued by Governor Rosellini of the State of Washington, proclaiming that "The criminal and civil jurisdiction of the State of Washington shall apply to the Confederated Tribes of the Chehalis Reservation, Quileute Indian Reservation, Swinomish Tribal Community, their people, reservation, territory, lands and country, and all persons being and residing therein"; and

WHEREAS, the Proclamation was issued under the provisions of Chapter 240, laws of 1957, 1957, 1963), enacted pursuant to the authority granted the State of Washington by Public Law 83-280, 67 stat. 588 (1953) which authorized the extension of law and order to any

Indian reservation in the State of Washington when requested by the governing body of the tribe thereof; and

WHEREAS, under provisions of Chapter 267, laws of 1986, the Washington State Legislature authorized a process whereby the CONFEDERATED Tribes of the Chehalis Reservation, Quileute Indian Reservation, Swinomish Tribal Community may request a partial retrocession of state criminal jurisdiction over the Confederated Tribes of the Chehalis Reservation, Quileute Indian Reservation, Swinomish Tribal Community; and

WHEREAS, the governing authority of the confederated Tribes of the Chehalis Reservation transmitted by letter dated March 9, 1988 and Resolution 1988-7 adopted March 9, 1988; Quileute Indian Reservation transmitted by letter dated March 18, 1988, Resolution 88-A-23 dated March 17, 1988; Swinomish Tribal Community, Resolution 88-3-12 dated March 17, 1988, transmitted by letter dated March 18, 1988, resolutions requesting a partial retrocession of state criminal jurisdiction over the Confederated Tribes of the Chehalis Reservation, Quileute Indian Reservation, Swinomish Tribal Community;

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, do hereby proclaim that Governor Rosellini's proclamation of the 14th day of October, 1957, proclaiming state criminal and civil jurisdiction over the Confederated Tribes of the Chehalis Reservation, 3rd day of October, 1957, proclaiming state criminal and civil jurisdiction over the Quileute Indian Reservation, 7th day of June, 1963, proclaiming state criminal and civil jurisdiction over the Swinomish Tribal Community, their people, reservation, territory, lands and country, is hereby revoked and proclaimed null and void and superseded by this proclamation.

IT IS FURTHER PROCLAIMED, pursuant to Sec. 4, Chapter 267, laws of 1986, that any jurisdiction exercised by the State of Washington over the Confederated Tribes of the Chehalis Reservation, Quileute Indian Reservation, Swinomish Tribal Community, except as provided in RCW 37.12.010 and Chapter 267, laws of 1986, is retroceded to the United States Government in accordance with 25 USC Sec. 1323 (82 Stat. 78, 79), and in accordance with procedures established by the United States for acceptance of such partial retrocession of jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 8th day of June, A.D., nineteen hundred and eighty-eight.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

Reviser's note: The typographical error in the above material appeared in the original copy of the proclamation and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-13-041

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order PT 88-8—Filed June 9, 1988]

I, William R. Wilkerson, director of revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- | | | |
|-----|----------------|---|
| Amd | WAC 458-16-030 | Senior citizen and disabled persons exemption—Claims. |
| Amd | WAC 458-16-111 | Filing fees, penalties, and refunds. |
| Amd | WAC 458-16-130 | Real property sold or acquired by property owner deemed to be exempt. |

This action is taken pursuant to Notice No. WSR 88-10-025 filed with the code reviser on May 2, 1988. 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 84.36.389 and 84.36.865 which directs that the Department of Revenue has authority to implement the provisions of chapter 84.36 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 June 7, 1988.

By Linda L. Lethlean
Acting Assistant Director

AMENDATORY SECTION (Amending Order PT 83-5, filed 9/14/83)

WAC 458-16-030 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—CLAIMS. All initial claims for exemption shall be filed with the county assessor ~~((between January 2 and July 1 of))~~ at any time during the year in which the property tax is to be

levied and solely upon the forms prescribed by the department of revenue. At such time as a claimant's entitlement to the exemption or their income changes to reflect a different exemption level a change of status report must be filed with the county assessor between January 2 and July 1 of the year in which the property tax is to be levied and solely upon forms prescribed by the department of revenue. All claims for exemption shall be made and signed by the person entitled to the exemption, by his or her attorney in fact or in the event the residence of such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner, either before two witnesses or the county treasurer, assessor or their deputies in the county where the real property is located.

If the taxpayer is unable to submit his own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

Whenever possible, information concerning qualifications, applications, and availability of information about this exemption shall be included with property tax statements.

The claim for exemption, properly completed, may be accepted by the assessor without question: PROVIDED, That if the claim appears erroneous or if the assessor has other information concerning the claimant's qualifications, the assessor may require verification of all information prior to approving the claim.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-111 FILING FEES, PENALTIES AND REFUNDS. Filing fee:

The filing fee of \$35.00 shall be collected before the department of revenue considers either an initial or renewal application (as defined in WAC 458-16-110) for property tax exemption.

Late penalties:

A late filing penalty of \$10.00 per month or portion of a month shall be collected before the department of revenue will consider any claim for property tax exemption when the completed claim is not filed by the due date. Late filing penalties are computed from the date the filing should have been made to the date the claim was received. The department will allow a two-week period in writing when notifying applicants of late filing penalties needed. Applicants not completing the application in the period allowed, must be assessed late filing penalties to the date all fees are received. Applications for (~~current and~~) previous years' taxes may be accepted if the applicant provides proof the property was used for exempt purposes in the assessment year prior to the tax year and the initial filing fees and late filing penalties are submitted for the period the application for exemption should have been filed to the date the application is completed.

Refunds:

Fees and penalties will be refunded if:

(1) A duplicate claim for the same property is filed by the same legal owner for the same year.

(2) A claim is improperly received by the department of revenue and it has no authority to consider it. (Example: Claim filed by government entity.)

(3) A request for withdrawal of the application for exemption is received in writing prior to the department issuing a determination. The request shall include a signed statement clearly withdrawing the claim for exemption. The person requesting the withdrawal must be the same person who signed the application or another person authorized by the legal owner.

The department of revenue has no authority to refund fees or penalties after a determination is issued.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-130 REAL PROPERTY SOLD OR ACQUIRED BY PROPERTY OWNER DEEMED TO BE EXEMPT. As required by RCW 84.36.855, real property which is transferred or converted by an exempt body to taxable ownership or use or which is no longer exempt for any reason shall be subject to a prorata portion of taxes allocable to that property for the remaining portion of that year, after the date of the execution of the instrument of sale, contract or exchange, or the conversion to a taxable use or the date the property is no longer exempt as provided in RCW 84.40.350 through 84.40.390. Real property exempted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.050 and 84.36.060 is also subject to the provisions of RCW 84.36.810.

When any property owner determined to be, or could be, exempt under chapter 84.36 RCW acquires ownership of real property which was in other ownership as of January 1 or converts real property from a taxable to an exempt use must apply for and provide proof that under the specific RCW section and appropriate WAC, the property is entitled to exemption or continued exemption from time of transfer or conversion.

When organizations acquire or convert real property to an exempt use, the property will upon approval of the application for exemption, be entitled to ~~((a cancellation or refund of the taxes or the prorata portion of taxes payable for the remaining portion of the year from the date of acquisition or conversion plus))~~ exemption for the following year. Exempt property transferring from one nonprofit organization to another, will enjoy a continuing exemption upon approval, of proper application by the purchasing organization. If the taxes have been paid or if the timing of granting the exemption requires it, the department of revenue will reconvene the June session of the county board of equalization, under the provisions of RCW 84.56.400, in order to cancel the taxes and/or to institute a refund as provided in chapter 84.69 RCW.

WSR 88-13-042
ADOPTED RULES
DEPARTMENT OF REVENUE
 [Order PT 88-9—Filed June 9, 1988]

I, William R. Wilkerson, director of revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 458-18-010 Deferral of special assessments and/or property taxes—Definitions.
 Amd WAC 458-18-020 Deferral of special assessments and/or property taxes—Qualifications.
 Amd WAC 458-18-060 Limitations of deferral—Interest.

This action is taken pursuant to Notice No. WSR 88-10-026 filed with the code reviser on May 2, 1988. 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 84.38.180 which directs that the Department of Revenue has authority to implement the provisions of chapter 84.38 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 June 7, 1988.

By Linda L. Lethlean
 Acting Assistant Director

AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

WAC 458-18-010 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—DEFINITIONS. (1) "Claimant" means a person who is receiving a property tax exemption under RCW 84.36.381 through 84.36.389 and who either elects or is required under RCW 84.64.030 or 84.64.050 to defer payment of the special assessments and/or real property taxes on his or her residence. If two individuals of a household seek to defer, they must determine between them as to who the claimant shall be.

(2) "Department" means the Washington state department of revenue.

(3) "Equity value" means the amount by which the true and fair value of a residence as shown on the county property tax rolls for the year the deferral is to be made exceeds the total amount of all liens, obligations and encumbrances against the property excluding the deferral liens.

(4) "Special assessment" means the charge or obligation imposed by a city, town, county or other municipal corporation upon property specially benefited by a local improvement as provided in chapters:

- (a) 35.44 RCW—Local improvements—Assessments and reassessments (cities and towns)
 (b) 36.88 RCW—County road improvement districts (counties)
 (c) 36.94 RCW—Sewer, water and drainage systems (counties)
 (d) 53.08 RCW—Powers (port districts)

(e) 54.16 RCW—Powers (public utility districts)
 (f) 56.20 RCW—Utility local improvement districts (sewer districts)

(g) 57.16 RCW—Comprehensive plan—Local improvement districts (water districts)

(h) 86.09 RCW—Flood control districts—1937 Act (flood control)

(i) 87.03 RCW—Irrigation districts generally (irrigation) along with any others that may be relevant.

The term does not include the charge or obligation for services specially benefiting property not involving the construction of permanent improvements to real property, e.g., mosquito control, weed control, etc.

(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state. It includes foreclosure costs, interest and penalties accrued to the date the declaration for deferral is filed.

(6) "Fire and casualty insurance" means a policy with an insurer that is authorized to insure property in this state by the state insurance commission.

(7) "Lien" means any interest in property given to secure payment of a debt or performance of an obligation, and shall include a deed of trust. It shall include the total amount of assessments and/or property taxes deferred and the interest thereon.

AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

WAC 458-18-020 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—QUALIFICATIONS FOR DEFERRAL. A person may defer payment of special assessments and/or real property taxes on his property that is receiving an exemption under RCW 84.36.381 through 84.36.389 on up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse and cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life or a revocable trust does not satisfy the ownership requirement.

(2) If the amount deferred is to exceed one hundred percent of the claimants equity value in the land or lot only, the claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and shall designate the state as a loss payee upon said policy. In no case shall the deferred amount exceed the amount of the insured value of the improvement plus the land value.

(3) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

WAC 458-18-060 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—LIMITATIONS OF DEFERRAL—INTEREST. No deferral shall be granted if the liens created by the deferrals of special assessments and/or real property taxes equal or exceed eighty percent of the claimant's equity value in said property. Equity value will be determined as of January 1 in the year the taxes are to be deferred.

The liens shall include:

- (1) The total amount of special assessments and/or real property taxes deferred, plus
- (2) Interest on the amount deferred at the rate of eight percent per year, from the time it could have been paid before delinquency until said lien is paid. When a declaration is filed after the taxes are delinquent, interest at the rate of eight percent per year on the amount deferred will begin accruing on the date the declaration is filed and will continue until the obligation is paid.

WSR 88-13-043
EMERGENCY RULES
HOSPITAL COMMISSION

[Order 88-03, Resolution No. 88-03—Filed June 9, 1988]

Be it resolved by the Washington State Hospital Commission, acting at the West Coast Sea-Tac Hotel, Seattle, Washington, that it does adopt the annexed rules relating to methodology and criteria for approval, modification or disapproval of annual budget submittal and rates, rate schedules, other charges and changes therein, WAC 261-40-020.

We, the Washington State Hospital Commission, 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 HB 1951, chapter 262, Laws of 1988, became effective June 9, 1988.

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

This rule is promulgated pursuant to chapter 70.39 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 June 9, 1988.

By Maurice A. Click
Executive Director

AMENDATORY SECTION (Amending Order 84-05, Resolution No. 84-05, filed 10/1/84)

WAC 261-40-020 **APPLICABILITY OF THIS CHAPTER.** (1) *Required commission approval of rate changes: No rate described in any hospital's annual budget submittal as approved by the commission may be changed by such hospital without applying to the commission for the approval of a rate change in accordance with the procedures set forth in this chapter. Rate changes for volume variance under WAC 261-40-150 are not considered rate changes under this section.*

(2) *Effective date of change in approved rates: Hospitals shall utilize only those rates that have been approved by the commission. Every request for a change in rates shall provide for a proposed effective date for that change which shall be no sooner than thirty days after the commission receives the request. If the request does not include a proposed effective date, that date shall be deemed to be thirty days after the receipt of the request.*

The new rates may be utilized by the hospital after the proposed effective date unless the commission has suspended the date pursuant to WAC 261-40-030.

(3) *Publication of a schedule of rates and proposed changes in rates: Each hospital shall issue and make available to the public a schedule of rates as approved by the commission. Any proposed changes in rates shall be plainly indicated on the schedule effective at that time and shall be open to public inspection for at least thirty days prior to the proposed effective date.*

(4) *Hospitals located within fifteen miles of one or more hospitals located in an out-of-state jurisdiction not subject to the authority of this commission and which nonjurisdictional hospitals have existing capacities to absorb twenty-five percent or more of the patients served by the hospital which would normally be subject to the jurisdiction of this commission shall not be subject to the commission's rate review and approval provisions as set forth in RCW 70.39.140. Those hospitals found to be exempt under this provision will still have the responsibility to make on a timely basis all filings required by the commission and shall provide on a timely basis other pertinent data that may from time to time be requested by the commission.*

WSR 88-13-044
ADOPTED RULES
HOSPITAL COMMISSION

[Order 88-04, Resolution No. 88-04—Filed June 9, 1988]

Be it resolved by the Washington State Hospital Commission, acting at the West Coast Sea-Tac Hotel, Seattle, Washington, that it does adopt the annexed rules relating to methodology and criteria for approval, modification or disapproval of annual budget submittal and rates, rate schedules, other charges and changes therein, WAC 261-40-020 and 261-40-190.

This action is taken pursuant to Notice No. WSR 88-10-047 filed with the code reviser on May 4, 1988. 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 70.39 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 June 9, 1988.

By Maurice A. Click
Executive Director

AMENDATORY SECTION (Amending Order 84-05, Resolution No. 84-05, filed 10/1/84)

WAC 261-40-020 APPLICABILITY OF THIS CHAPTER. (1) Required commission approval of rate changes: No rate described in any hospital's annual budget submittal as approved by the commission may be changed by such hospital without applying to the commission for the approval of a rate change in accordance with the procedures set forth in this chapter. Rate changes for volume variance under WAC 261-40-150 are not considered rate changes under this section.

(2) Effective date of change in approved rates: Hospitals shall utilize only those rates that have been approved by the commission. Every request for a change in rates shall provide for a proposed effective date for that change which shall be no sooner than thirty days after the commission receives the request. If the request does not include a proposed effective date, that date shall be deemed to be thirty days after the receipt of the request.

The new rates may be utilized by the hospital after the proposed effective date unless the commission has suspended the date pursuant to WAC 261-40-030.

(3) Publication of a schedule of rates and proposed changes in rates: Each hospital shall issue and make available to the public a schedule of rates as approved by the commission. Any proposed changes in rates shall be plainly indicated on the schedule effective at that time and shall be open to public inspection for at least thirty days prior to the proposed effective date.

(4) Hospitals located within fifteen miles of one or more hospitals located in an out-of-state jurisdiction not subject to the authority of this commission and which nonjurisdictional hospitals have existing capacities to absorb twenty-five percent or more of the patients served by the hospital which would normally be subject to the jurisdiction of this commission shall not be subject to the commission's rate review and approval provisions as set forth in RCW 70.39.140. Those hospitals found to be exempt under this provision will still have the responsibility to make on a timely basis all filings required by the commission and shall provide on a timely basis other pertinent data that may from time to time be requested by the commission.

NEW SECTION

WAC 261-40-190 PENALTIES FOR VIOLATION. RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform any act which that chapter makes it his/her duty to perform shall be guilty of a misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation. Failure to file the reports required by WAC 261-40-110, 261-40-130, 261-40-150 (5)(f)(iii), and 261-40-170 shall constitute a violation, and the commission may levy a civil penalty not to exceed one hundred dollars per day for each day following official notice of the violation by the commission. The executive director of the commission may grant extensions of time to file the reports, in which cases failure to file the reports shall not constitute a violation until the extension period has expired.

WSR 88-13-045

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 88-16—Filed June 9, 1988]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at the General Administration Building, Olympia, Washington 98504, the annexed rules relating to RCW 49.28.020 which is an act relating to conditions of labor when working longer than eight hours on a public works project.

I, Joseph A. Dear, 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 amendments to chapter 49.28 RCW passed by the 1988 Washington state legislature and which becomes effective June 9, 1988, require the implementation of rules. Permanent rules will be adopted after public hearings and discussion.

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

This rule is promulgated pursuant to RCW 49.28.020 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the [Department of Labor and Industries] as authorized in RCW 43.22.270.

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 June 9, 1988.

By Joseph A. Dear
Director

WSR 88-13-047

ADOPTED RULES

BELLEVUE COMMUNITY COLLEGE

[Order 95, Resolution No. 178—Filed June 10, 1988]

NEW SECTION

WAC 296-127-022 OVERTIME ACCORDING TO CHAPTER 49.28 RCW. (1) Work performed on public works contracts with bid due dates of June 9, 1988, and thereafter, will not require the payment of overtime rates for the first two hours worked in excess of eight hours per day when:

(a) The industrial statistician has determined that the prevailing wage rates are those which are stipulated in a collective bargaining agreement that permits a 4-10 work week without the payment of overtime rates for the two hours worked in excess of eight hours per day, and

(i) The workers are covered under a collective bargaining agreement; or

(ii) The workers are not members of the collective bargaining organization which is signatory to the collective bargaining agreement, but they have signed an agreement to work under the specified conditions.

(b) The industrial statistician has determined that the prevailing rate of wage does not require the payment of overtime for the first two hours in excess of eight hours per day and the workers have signed an agreement to work under that condition.

(2) For the purpose of this section an agreement must:

(a) Have been authorized by employees who bargained collectively with their employers through representatives of their own choosing; or

(b) Be obtained in writing; and

(c) Be obtained individually from each employee; and

(d) Obtained separately for each public works project; and

(e) Obtained from each employee before he or she starts work on a public works project.

(f) Obtained voluntarily.

(3) It is prohibited to work more than ten hours in any calendar day on a public works project except in cases of extraordinary emergency, such as danger to life or property.

WSR 88-13-046

NOTICE OF PUBLIC MEETINGS

SOUTH PUGET SOUND COMMUNITY COLLEGE

[Memorandum—June 9, 1988]

The board of trustees of Community College District Twenty-Four have not adopted a full schedule of regular meetings for the coming year as yet. They have, however, adopted a meeting date for July as follows: Thursday, July 14, 1988, 3:00 p.m., South Puget Sound Community College Boardroom.

Be it resolved by the board of trustees of Community College District VIII, Bellevue Community College, acting at 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the annexed rules relating to bylaws and standing orders of Community College District VIII.

This action is taken pursuant to Notice No. WSR 88-07-089 filed with the code reviser on March 22, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of Community College District VIII, Bellevue Community College, as authorized in RCW 28B.50.140.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 10, 1988.

By Paul N. Thompson
President

AMENDATORY SECTION (Amending Order 61, filed 9/13/78)

WAC 132H-105-140 DELEGATION OF AUTHORITY FOR HIGHER EDUCATION PERSONNEL LAW - CLASSIFIED PERSONNEL. Be it resolved that the President or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, is hereby delegated the power and duty of the Board of Trustees to act in its behalf as the appointing authority of the college for the purpose of the Higher Education Personnel Law. This delegation shall include but not be limited to the authority to employ, dismiss, suspend, demote, lay off, reassign or accept the resignations of members of the classified staff. In addition, the President or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, is hereby delegated such authority as is necessary to effectuate the administration of the classified personnel; provided that all contracts between recognized bargaining agents of classified personnel and Bellevue Community College shall be valid only after those contracts have received the approval of the Board of Trustees. The President of the college or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, may be delegated the authority to negotiate on behalf of the Board of Trustees, but in no event shall the President or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, be authorized to bind contractually the college in any

agreement with a recognized bargaining agent of the classified staff.

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 88-13-048

ADOPTED RULES

BELLEVUE COMMUNITY COLLEGE

[Order 96, Resolution No. 180—Filed June 10, 1988]

Be it resolved by the board of trustees of Community College District VIII, Bellevue Community College, acting at 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the annexed rules relating to policy on life threatening, chronic or debilitating illness general operating policies of Community College District VIII.

This action is taken pursuant to Notice No. WSR 88-07-088 filed with the code reviser on March 22, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of Community College District VIII, Bellevue Community College, as authorized in RCW 28B.50.140.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 10, 1988.

By Paul N. Thompson
President

NEW [SECTION]

WAC 132H-200-250 POLICY ON LIFE THREATENING, CHRONIC OR DEBILITATING ILLNESS. Bellevue Community College recognizes that students, staff, faculty, administrators and their dependents with life-threatening, chronic, or debilitating illnesses, including, but not limited to cancer, heart disease and Acquired Immune Deficiency Syndrome (AIDS), may wish to continue to engage in as many of their activities as their condition allows, including work and academic pursuits without being discriminated against.

As long as these students and employees are able to meet acceptable performance standards, and medical evidence indicates that attendance at Bellevue Community College is not a threat to themselves or others, the College will treat them the same as any other students and employees.

At the same time, Bellevue Community College seeks to provide a safe environment for students and employees. Therefore, precautions will be taken, as needed, to ensure that a student's or employee's condition does not present a health and/or safety threat to any other individuals on the campus.

To date, medical research indicates that students or employees with AIDS, Aids Related Complex (ARC), or a positive Human Immunodeficiency Virus (otherwise known as HIV, the virus that causes AIDS) antibody test do not pose a health risk to other students or employees in an academic setting. The HIV infection is thought to be transmitted by intimate sexual contact, intravenous drug activity or blood transfusions. There has been no confirmed case of transmission of the HIV infection by any casual, ordinary household, office, or school contact. The United States Public Health Service states that, among other things, there is no risk created by living in the same house as an infected person, eating food handled by an infected person, being coughed or sneezed upon by an infected person, casual kissing, swimming in a pool with an infected person or, with proper precautions, caring for an AIDS patient.

(1) **GUIDELINES.** Bellevue Community College subscribes to the following guidelines provided from the American Health Association's "General Statement on Institutional Response to AIDS:"

(a) The general rule is that legal and ethical considerations militate against the adoption of any policies or courses of action which would deny ordinary privileges and rights, including that of privacy, to members of the college community who are known or suspected to have AIDS, ARC, or a positive HIV antibody test or any other chronic or debilitating illness.

(b) College students who have AIDS, ARC, or a positive HIV antibody test, whether they are symptomatic or not, should be allowed regular classroom attendance in an unrestricted manner as long as they are physically able to attend classes.

(c) There is no medical justification for restricting the access of students with AIDS, ARC, or a positive HIV antibody test to student unions, theaters, restaurants, cafeterias, snack bars, gymnasiums, swimming pools, recreational facilities, or other common areas.

(d) Consideration of the existence of AIDS, ARC, or a positive HIV antibody test will not be a part of the admission decision for those applying to attend the college.

(e) The rights, privileges, and confidentiality of individuals with confirmed exposure to the AIDS virus shall be based on applicable State and Federal regulations and laws and college policy which guarantees freedom from discrimination and harassment.

(2) **RESOURCES.** Consistent with our concern for students and employees with life-threatening, chronic, or debilitating illnesses, Bellevue Community College will provide the following resources to students and staff:

(a) Education and information on terminal illness and specific life-threatening illnesses. The Health Services Department shall provide education and information on terminal and/or life-threatening illnesses through lectures, workshops and brochures.

(b) Referral to agencies and organizations which offer supportive services for life-threatening illness.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 88-13-049
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
(Noxious Weed Board)
 [Filed June 10, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Noxious Weed Board intends to adopt, amend, or repeal rules concerning noxious weed region descriptions, regions in which Class B weeds will be designated, and definitions which will apply throughout chapter 16-750 WAC;

that the agency will at 10:00 a.m., Wednesday, July 27, 1988, in the Commissioners' Auditorium of the Kittitas Court Courthouse, 5th and Main, Ellensburg, Washington 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 19, 1988.

The authority under which these rules are proposed is chapter 17.10 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988, to Catherine E. Hovanic, Executive Secretary, State Noxious Weed Board, 1313 West Meeker, Suite 111, P.O. Box 1064, Kent, WA 98035.

Dated: June 10, 1988
 By: Catherine Hovanic
 Executive Secretary
 for Arlie Clinkenbeard
 Chairman

STATEMENT OF PURPOSE

Title: Chapter 16-750 WAC.

Description of Purpose: The State Noxious Weed Control Board has established ten noxious weed regions in the state for the purpose of designating Class B weeds for control and has formulated definitions in compliance with chapter 17.10 RCW and that will apply throughout chapter 16-750 WAC.

Statutory Authority: Chapter 17.10 RCW.

Summary of Rules: Ten noxious weed regions have been established and Class B weeds have been designated for control within these regions in accordance with chapter 17.10 RCW. Definitions have been formulated for the words "control," "suppress," "contain," "eradicate" and "prevent the spread of noxious weeds" in compliance with chapter 17.10 RCW and additional definitions have been formulated that will apply throughout chapter 16-750 WAC.

Reasons for Supporting Proposed Rules: The Washington State Noxious Weed Control Board is required by chapter 17.10 RCW to adopt definitions for the words "control," "contain," "eradicate," and "prevent the spread of noxious weeds" and to designate regions where Class B weeds must be controlled.

Personnel Responsible for Drafting and Implementing Rules: Washington State Noxious Weed Control Board, Arlie Clinkenbeard, Chairman, 149 Third North, Okanogan, WA 98840, phone (509) 422-3521.

Agency Personnel Responsible for Enforcing Rules: Art G. Losey, Washington State Department of Agriculture, Assistant Director, 406 General Administration Building, AX-41, Olympia, WA 98504, phone (206) 753-5062.

Persons Proposing Rules: Washington State Noxious Weed Control Board.

Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

NEW SECTION

WAC 16-750-003 DEFINITIONS. (1) The definitions set forth in this subsection shall apply throughout this chapter, unless the context otherwise plainly requires:

(a) "Board" and "state board" means the noxious weed control board of this state, or a duly authorized representative.

(b) "Director" means the director of agriculture of this state, or a duly authorized representative.

(c) "Department" means the department of agriculture of this state.

(d) "Person" means any individual, partnership, corporation, firm, or any other entity.

(2) The definitions set forth in this subsection shall apply throughout this chapter, chapter 17.10 RCW, and any rules adopted thereunder unless the context otherwise plainly requires:

(a) "Control" means to suppress or contain a noxious weed within a geographical area.

(b) "Suppress" means to reduce the incidence or severity of a noxious weed within a geographical area.

(c) "Contain" means to confine a noxious weed to a geographical area.

(d) "Eradicate" means to eliminate a noxious weed within a geographical area.

(e) "Prevent the spread of noxious weeds" means to forestall their introduction and/or spread within a geographical area.

(f) "Class B designate" means those Class B noxious weeds whose populations in a region or area are such that all seed production can be reasonably prevented within a calendar year.

(g) "Class B nondesignate" means those Class B noxious weeds whose populations in a region or area are such that all seed production cannot be reasonably prevented in a calendar year.

(3) Any county noxious weed control board may enhance the clarity of any definition contained in subsection (2) of this section, making that definition more specific, but shall not change its general meaning.

NEW SECTION

WAC 16-750-004 NOXIOUS WEED REGION DESCRIPTIONS. The state of Washington is divided into ten regions for the purpose of designating Class B noxious weeds.

(1) Region 1 description. A region consisting of all lands lying within the boundaries of Clallam and Jefferson counties.

(2) Region 2 description. A region consisting of all lands lying within the boundaries of Whatcom, Skagit, Snohomish, San Juan, and Island counties.

(3) Region 3 description. A region consisting of:

(a) All lands lying within the boundaries of Okanogan County.

(b) All lands lying within the boundaries of Chelan and Douglas counties and north of Highway 2.

(4) Region 4 description. A region consisting of:

(a) All lands lying within the boundaries of Ferry, Stevens, and Pend Oreille counties.

(b) All lands lying within the boundaries of Spokane County and north of the Spokane River.

(5) Region 5 description. A region consisting of all lands lying within the boundaries of Grays Harbor, Mason, Kitsap, Thurston, Pierce, and King counties.

(6) Region 6 description. A region consisting of:

(a) All lands lying within the boundaries of Kittitas and Grant counties.

(b) All lands lying within the boundaries of Chelan and Douglas counties and south of Highway 2.

(c) All lands lying within the boundaries of Yakima County and north of Highway 12 from the Yakima — Lewis County line to

Yakima and north of Highway 82 from Yakima to the Yakima — Kittitas County line.

(7) Region 7 description. A region consisting of:

(a) All lands lying within the boundaries of Lincoln and Whitman counties.

(b) All lands lying within the boundaries of Spokane County and south of the Spokane River.

(c) All lands lying with the boundaries of Ranges 31E, 32E, 33E, 34E, 35E, 36E, 37E, and 38E of Adams County.

(8) Region 8 description. A region consisting of all lands lying within the boundaries of Pacific, Lewis, Wahkiakum, Cowlitz, Skamania, and Clark counties.

(9) Region 9 description. A region consisting of:

(a) All lands lying within the boundaries of Benton and Klickitat counties.

(b) All lands lying within the boundaries of Yakima County and south of Highway 12 from the Yakima — Lewis County line to Yakima and south of Highway 82 from Yakima to the Yakima — Kittitas County line.

(c) All lands lying within the boundaries of Franklin County and west of Highway 395.

(10) Region 10 description. A region consisting of:

(a) All lands lying within the boundaries of Asotin, Garfield, Columbia, and Walla Walla counties.

(b) All lands lying within the boundaries of Franklin County and east of Highway 395.

AMENDATORY SECTION (Amending Order 22, Resolution No. 22, filed 3/7/88)

WAC 16-750-011 STATE NOXIOUS WEED LIST—CLASS B NOXIOUS WEEDS. ((Class B noxious weeds are as follows:

Common Name	Scientific Name
apera, interrupted	<i>Apera interrupta</i>
blueweed	<i>Echium vulgare</i>
broom, Scotch	<i>Cytisus scoparius</i>
bryony, white	<i>Bryonia alba</i>
bugloss, common	<i>Anchusa officinalis</i>
camelthorn	<i>Alhagi pseudalhagi</i>
catsear, spotted	<i>Hypochaeris radicata</i>
daisy, oxeye	<i>Chrysanthemum leucanthemum</i>
dogtailgrass, hedgehog	<i>Cynosurus echinatus</i>
foxtail, slender	<i>Alopecurus myosuroides</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
gorse	<i>Ulex europaeus</i>
hawkweed, orange	<i>Hieracium aurantiacum</i>
hawkweed, yellow	<i>Hieracium pratense</i>
indigobush	<i>Amorpha fruticosa</i>
knapweed, black	<i>Centaurea nigra</i>
knapweed, brown	<i>Centaurea jacea</i>
knapweed, diffuse	<i>Centaurea diffusa</i>
knapweed, meadow	<i>Centaurea jacea X nigra</i>
knapweed, Russian	<i>Centaurea repens</i>
knapweed, spotted	<i>Centaurea maculosa</i>
lepyrodiclis	<i>Lepyroclis holosteooides</i>
lythrum, purple	<i>Lythrum salicaria</i>
medusahcad	<i>Faenatherum caput-medusae</i>
nutsedge, yellow	<i>Cyperus esculentus</i>
ox tongue, hawkweed	<i>Picris hieracioides</i>
pea weed, Austrian	<i>Sphaerophysa salsuta</i>
pepperweed, perennial	<i>Lepidium latifolium</i>
ragwort, tansy	<i>Senecio jacobaea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
sandbur, longspine	<i>Cenchrus longispinus</i>
skeletonweed, rush	<i>Chondrilla juncea</i>
sowthistle, perennial	<i>Sonchus arvensis</i>
spurge, leafy	<i>Euphorbia esula</i>
starthistle, yellow	<i>Centaurea solstitialis</i>
thistle, musk	<i>Carduus nutans</i>
thistle, plumelless	<i>Carduus acanthoides</i>
thistle, Scotch	<i>Onopordum acanthium</i>
toadflax, Dalmatian	<i>Linaria genistifolia</i> spp. <i>dalmatica</i>
ventenata	<i>Ventenata dubia</i>
watermilfoil, Eurasian	<i>Myriophyllum spicatum</i>)

Name	Will be a "Class B designate" in all lands lying within:
(1) <u>apera, interrupted</u> <u>Apera interrupta</u>	(a) regions 1,2,3,5,6,8,9,10 (b) Ferry, Stevens, and Pend Oreille counties of region 4 (c) Lincoln and Adams counties of region 7.
(2) <u>blueweed</u> <u>Echium vulgare</u>	(a) regions 1,2,3,4,5,6,8,9,10 (b) region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(3) <u>broom, Scotch</u> <u>Cytisus scoparius</u>	(a) regions 3,4,6,7,10 (b) region 9 except that area lying west of the Klickitat River in Klickitat County.
(4) <u>bryony, white</u> <u>Bryonia alba</u>	(a) regions 1,2,3,4,5,6,7,8,9 (b) Franklin County of region 10.
(5) <u>bugloss, common</u> <u>Anchusa officinalis</u>	(a) regions 1,2,3,5,6,8,9,10 (b) Ferry and Pend Oreille counties of region 4 (c) Lincoln, Adams, and Whitman counties of region 7.
(6) <u>camelthorn</u> <u>Alhagi pseudalhagi</u>	(a) regions 1,2,3,4,5,7,8 (b) Intercounty Weed District No. 51, Intercounty Weed District No. 52, Grant County Weed District No. 1, Grant County Weed District No. 2, and Grant County Weed District No. 3 (c) Grant County north of Highway 90 (d) T16N, R29E; T16N, R30E; T15N, R28E except Sec. 5; T15N, R29E; T15N, R30E (e) Franklin County of region 9 (f) Columbia, Garfield, and Asotin counties of region 10 (g) an area beginning at the Washington — Oregon border at the southwest portion of section 15, R32E, T6N, then north to the northwest corner of section 3, R36E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.
(7) <u>catsear, spotted</u> <u>Hypochaeris radicata</u>	(a) regions 3,4,6,7,9,10.
(8) <u>daisy, oxeye</u> <u>Chrysanthemum leucanthemum</u>	(a) regions 6,7,9,10.

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(9) <u>dogtailgrass, hedgehog</u> <u>Cynosurus echinatus</u>			(e) region 10 except Franklin County.
(10) <u>foxtail, slender</u> <u>Alopecurus myosuroides</u>	(a) regions 1,2,3,5,6,8,9,10 (b) Ferry, Stevens, Pend Oreille counties of region 4 (c) Adams and Whitman counties of region 7.	(21) <u>knapweed, spotted</u> <u>Centaurea maculosa</u>	(a) regions 1,2,3,5,6,8,9 (b) Adams and Whitman counties of region 7 (c) region 10 except Garfield County.
(11) <u>goatgrass, jointed</u> <u>Aegilops cylindrica</u>	(a) regions 1,2,5,8 (b) Ferry County of region 4 (c) Grant and Adams counties of region 6 (d) Franklin County of regions 9 and 10 (e) Intercounty Weed District No. 51.	(22) <u>lepyrodiclis</u> <u>Lepyroclis holsteoides</u>	(a) regions 1,2,3,4,5,6,8,9,10 (b) region 7 except an area within Whitman County east of the Pullman — Wawaawai Road from Wawaawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
(12) <u>gorse</u> <u>Ulex europaeus</u>	(a) regions 3,4,6,7,9,10 (b) Thurston County of region 5.	(23) <u>lythrum, purple</u> <u>Lythrum salicaria</u>	(a) regions 1,3,4,7,8 (b) region 5 except King County (c) region 6 except that portion of Grant County lying southerly of State Highway 28 and except Sections 21,28,29 and 32, Township 21 North, Range 26 East, W.M. (d) region 9 except Benton County (e) region 10 except Walla Walla County (f) Intercounty Weed Districts No. 51 and No. 52.
(13) <u>hawkweed, orange</u> <u>Hieracium aurantiacum</u>	(a) regions 3,6,7,9,10 (b) Ferry County of region 4.	(24) <u>medusahead</u> <u>Taeniatherum caput-medusae</u>	(a) regions 1,2,5,8.
(14) <u>hawkweed, yellow</u> <u>Hieracium pratense</u>	(a) regions 1,2,3,5,6,7,8,9,10 (b) Ferry County of region 4.	(25) <u>nutsetge, yellow</u> <u>Cyperus esculentus</u>	(a) regions 1,2,3,4,5,7,8 (b) Yakima County Weed District No. 1 (c) region 6 except: (i) those areas lying between State Highway 26 and State Highway 28 in Grant County (ii) those areas lying in Yakima County but not in Yakima Weed District No. 1 (d) region 9 except: (i) those areas lying in Yakima County but not in Yakima Weed District No. 1 (ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E
(15) <u>indigobush</u> <u>Amorpha fruticosa</u>	(a) regions 1,2,3,4,5,6,7 (b) Franklin County of regions 9 and 10.	(26) <u>oxtongue, hawkweed</u> <u>Picris hieracioides</u>	(a) regions 1,2,3,4,5,6,7,9,10 (b) region 8 except Skamania County.
(16) <u>knapweed, black</u> <u>Centaurea nigra</u>	(a) regions 1,2,3,4,5,7,9,10 (b) region 6 except Kittitas County (c) region 8 except Clark County.	(27) <u>peaweed, Austrian</u> <u>Sphaerophysa salsula</u>	(a) regions 1,2,3,4,5,7,8 (b) Yakima County Weed District No. 1 (c) Columbia, Garfield, Asotin, and Franklin counties an area beginning at the Washington — Oregon border at the southwest portion of section 15, R32E, T6N, then north to the northwest corner of section 3, R36E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to the southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning. (d) Columbia, Garfield, Asotin, and Franklin counties an area beginning at the Washington — Oregon border at the southwest portion of section 15, R32E, T6N, then north to the northwest corner of section 3, R36E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to the southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.
(17) <u>knapweed, brown</u> <u>Centaurea jacea</u>	(a) regions 1,2,3,4,5,7,9,10 (b) region 6 except Kittitas County (c) region 8 except Clark County.	(28) <u>pepperweed, perennial</u> <u>Lepidium latifolium</u>	(a) regions 1,2,3,4,5,7,8,10 (b) Grant County lying northerly of Township 21, North, W.M. (c) Intercounty Weed Districts No. 51 and 52.
(18) <u>knapweed, diffuse</u> <u>Centaurea diffusa</u>	(a) regions 1,2,5,8 (b) Grant County lying in the north half of Township 15 North, Ranges 24 through 27 East; Township 16 North, Ranges 25, 26 and 27 East; Townships 17 and 18 North, Ranges 25 through 30 East; Townships 19 and 20 North, Range 30 East; Township 22 North, Ranges 23, 24, and 25 East; Townships 21, 22, and 30 North, Ranges 28, 29, and 30 East; Townships 24 and 25 North, Ranges 29 and 30 East; Township 26 North, Range 30 East; and the east half of Township 27 North, Range 30 East, all W.M. (c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22,23,24,25,26,27,28, 31,32,33 and 34; T15N, R38E, Sections 2,10,11,14,15,19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6; T18N, R37E, Sections 29,30,31 and 32		
(19) <u>knapweed, meadow</u> <u>Centaurea jacea x nigra</u>	(a) regions 1,2,3,4,5,7,9,10 (b) region 6 except Kittitas County (c) region 8 except Clark County.		
(20) <u>knapweed, Russian</u> <u>Centaurea repens</u>	(a) regions 1,2,5,7,8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County except those areas in the Main Lind Coulee Drainage area of T17N, R32E, Sections 19,20,25,27,28,29,32, 33,34,35 and 36; T17N, R33E, Sections 16,17,19,20 and 30; and those areas within the Lower Crab Creek drainage area of T15N, R28E, sections 5 and 6; and the western half of T16N, R28E (d) Intercounty Weed District No. 52		

Name	Will be a "Class B designate" in all lands lying within:
(29) <u>ragwort, tansy</u> <u>Senecio jacobaea</u>	(a) <u>regions 3,4,6,7,9,10.</u>
(30) <u>sage, Mediterranean</u> <u>Salvia aethiops</u>	(a) <u>regions 1,2,3,4,5,6,7,8,9</u> (b) <u>Franklin County of region 10.</u>
(31) <u>sandbur, longspine</u> <u>Cenchrus longispinus</u>	(a) <u>regions 1,2,3,4,5,7,8</u> (b) <u>Adams County of region 6 except for that area lying within Intercounty Weed District No. 52</u> (c) <u>Intercounty Weed District No. 51.</u>
(32) <u>skeletonweed, rush</u> <u>Chondrilla juncea</u>	(a) <u>regions 1,2,3,5,8,9</u> (b) <u>Franklin County except T13N, R36E; and T14N, R36E</u> (c) <u>Adams County except those areas lying east of a boundary line running north from Franklin County along the western boundary of Range 36 East to Wellsandt Road then east on Wellsandt Road to Interstate 90 then following I-90 to the Lincoln County line</u> (d) <u>region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road E. Northwest</u> (e) <u>Pend Oreille County north of the northernmost boundary of Township 33 North.</u>
(33) <u>sowthistle, perennial</u> <u>Sonchus arvensis arvensis</u>	(a) <u>regions 1,2,3,4,5,7,8,9,10.</u>
(34) <u>spurge, leafy</u> <u>Euphorbia esula</u>	(a) <u>regions 1,2,3,4,5,6,8,9</u> (b) <u>region 7 except as follows:</u> (i) <u>T27N, R39E, Sections 24, 25, 28, 29, 30, 32, 33, 34</u> <u>T26N, R39E, Sections 3, 4, 5, 9, 10, 15, 16, 21, 22</u> (ii) <u>T22N, R37E, Sections 1, 12, 13, 14, 23, 24, 25, 26, 35, 36; T22N, R38E, Sections 3, 4, 5, 6, 7, 8, 17, 18, 19; T23N, R38E, Sections 7, 8, 17, 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, 34; T23N, R37E, Sections 23, 24, 25, 26, 35, 36</u> (iii) <u>T25N, R41E, all sections; all T27N, R41E south of the Spokane; River all T26N, R42E west of the Spokane River</u> (c) <u>region 10 except as follows:</u> (i) <u>T9N, R39E, Section 8</u> (ii) <u>T13N, R40E, Sections 10, 11, 12, 13, 14, 15, 16; T13N, R41E, Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14; T13N, R42E, Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 26, 27, 34, 35.</u>
(35) <u>starthistle, yellow</u> <u>Centaurea solstitialis</u>	(a) <u>regions 1,2,3,4,5,6,8,9</u> (b) <u>region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border</u> (c) <u>Franklin County.</u>
(36) <u>thistle, musk</u> <u>Carduus nutans</u>	(a) <u>regions 1,2,5,6,7,8,9,10</u> (b) <u>Spokane County.</u>
(37) <u>thistle, plumeless</u> <u>Carduus acanthoides</u>	(a) <u>regions 1,2,3,5,6,7,8,9,10</u> (b) <u>region 4 except Stevens County.</u>

Name	Will be a "Class B designate" in all lands lying within:
(38) <u>thistle, Scotch</u> <u>Onopordum acanthium</u>	(a) <u>regions 1,2,3,4,5,6,8,9</u> (b) <u>region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border</u> (c) <u>Franklin County.</u>
(39) <u>toadflax, Dalmatian</u> <u>Linaria genitifolia</u> <u>spp. dalmatica</u>	(a) <u>regions 1,2,5,8,10</u> (b) <u>Kittitas, Chelan, Douglas, Adams counties of region 6</u> (c) <u>Intercounty Weed District No. 51</u> (d) <u>Lincoln and Adams counties of region 7</u> (e) <u>region 9 except as follows:</u> (i) <u>those areas lying within Yakima County</u> (ii) <u>those areas lying west of the Klickitat River and within Klickitat County.</u>
(40) <u>ventenata</u> <u>Ventenata dubia</u>	(a) <u>regions 1,2,3,5,6,8</u> (b) <u>Franklin County.</u>
(41) <u>watermilfoil, Eurasian</u> <u>Myriophyllum spicatum</u>	(a) <u>regions 1,8,9,10</u> (b) <u>region 7 except Spokane County.</u>

WSR 88-13-050
ADOPTED RULES
DEPARTMENT OF AGRICULTURE
(Hop Commission)
 [Resolution No. 88-01—Filed June 10, 1988]

Be it resolved by the Washington Hop Commission, acting at the Holiday Inn, 9 North Ninth Street, Yakima, WA, that it does adopt the annexed rules relating to labeling, WAC 16-532-120.

This action is taken pursuant to Notice No. WSR 88-10-034 filed with the code reviser on May 3, 1988. 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 15.65.380 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 June 9, 1988.

By Henry J. Charvet
 Chairman

AMENDATORY SECTION (Amending Regulation 2, filed 10/16/64)

WAC 16-532-120 LABELING. (1) Each lot of hops must be identified by the crop year produced, grower number and lot designation stenciled on each bale.

(a) A three-digit grower number will be assigned by the Washington hop commodity board (commission) prior to the annual harvest.

(b) The marking will consist of the last digit of the crop year, the letter "G" and a hyphen, followed by the three-digit grower number and lot designation (example: 8G-000-01).

(c) The marking shall be affixed on the head or top of the bale and shall be in characters approximately two inches high.

(2) In addition to any other brands, labels, stencils or other marks customarily used by hop handlers to identify their own trademarks, labels or firm names, all hops shall be branded, labeled, stenciled or marked with one distinctive identifying marking, defined or designated by the hop commodity board (commission), which shall identify the hops as having been grown in the state of Washington.

((2)) (a) This mark or identification shall be stenciled in letters at least one inch in height and shall read: "WASHINGTON," or "GROWN IN WASHINGTON," as prescribed by the hop commodity board (commission).

((3)) (b) This mark or identification shall be affixed in a suitable position on the head or top of the bale, in the area generally used by the federal/state inspectors to stencil their own identification mark and in the same general area where the grower's "G" number is applied.

((4)) (c) At no time shall the said identification marking appear on the face or sides of the bales, as these areas are considered to be for the use of the dealer or handler for trademarks, shipping markings, bale numbers, firm insignias, etc.

((5)) (d) The approved identification marking shall be affixed by the federal/state inspector prior to the drawing of samples for federal/state inspection, and, no hops may be sampled for this purpose unless said markings have been affixed thereto in compliance with the regulations prescribed by the hop commodity board (commission).

((6)) (e) Handlers who offer hops for sale in foreign countries where only shipping markings are permitted on the bales or containers, may apply to the hop commodity board (commission) for permission to blot out or remove the identifying marking.

WSR 88-13-051

EMERGENCY RULES

DEPARTMENT OF GENERAL ADMINISTRATION

(Division of Banking)

[Order 73—Filed June 10, 1988]

I, Thomas H. Oldfield, director of the Division of Banking, Department of General Administration, do promulgate and adopt at Olympia, Washington, the annexed rules relating to chapter 50-20 WAC, industrial loan companies; amending WAC 50-20-040, contents of statement to borrower; and amending and adding new subsections to WAC 50-20-050, restrictions as to charges.

I, Thomas H. Oldfield, 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 regulations necessary for implementation of amendments to Industrial Loan Company Act, chapter 31.04 RCW, enacted by 1988 legislature, effective June 9, 1988.

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

This rule is promulgated pursuant to RCW 31.04.150(2) which directs that the Supervisor of Banking (Division of Banking, Department of General Administration), has authority to implement the provisions of chapter 31.04 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 June 10, 1988.

By Thomas H. Oldfield
Supervisor

AMENDATORY SECTION (Amending Order 5, filed 12/4/69)

WAC 50-20-040 CONTENTS OF STATEMENT TO BORROWER. (1) The company shall deliver to the borrower at the time any loan is made, a statement which shall disclose in clear and distinct terms the following information:

(a) The name and address of the industrial loan company.

(b) The name and address of the borrower.

(c) The number and date of the loan.

(d) The total amount of the loan.

(e) List of ~~((statutory deductions from the face amount of the note))~~ charges, including:

(i) Interest(=discount;) rate and amount. This shall be disclosed both as (A) the Annual Percentage Rate (APR) as defined in Regulation Z, 12 CFR 226, and (B) the simple interest rate, which is the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments agreed to by the borrower and calculations were made according to the actuarial method. For purposes of this calculation only, the original principal amount of a discount interest loan shall be deemed to be the amount of the total note less the interest deducted in advance.

(ii) Investigation fee.

(iii) Filing and releasing fee.

(iv) Title insurance premium.

(v) Appraisal fee.

(f) Date of maturity of the loan.

(g) Rate of interest after original maturity date.

(h) Description of the security, if any, including adequate description of the investment certificate.

(i) Agreement to permit payment in full before maturity. Refund of unearned interest shall be made in accordance with WAC 50-20-050(5).

(j) Amount and date of installment investment certificate.

(k) The terms of payment of the investment certificate, showing due dates and amount of installments.

(l) Penalty for payments which are delinquent one week or more.

(m) Service fees, if any.

(n) Any other requirements imposed by Regulation Z. (Titles I and V of Consumer Credit Protection Act, P.L. 90-321, 82 Stat. 146 1/5 U.S.C. 1601-1665.)

(2) Sufficient information must be maintained in the companies' files to show compliance with state and federal law.

AMENDATORY SECTION (Amending Order 63, filed 9/13/85)

WAC 50-20-050 RESTRICTIONS AS TO CHARGES. (1) No company shall charge the borrower for notarial fees.

(2) No industrial loan company shall require the purchasing of property insurance from the company or any employee, affiliate or associate of the company or from any agent, broker, or insurance company designated by the company as a condition precedent to the making of a loan nor shall any company decline existing insurance which meets or exceeds the standards set forth in this section.

A company may provide insurance on the life and disability of one borrower and on the life of the spouse of the borrower if both are obligors, provided that such insurance coverage shall not exceed the approximate unpaid balance of the total amount repayable under contract of indebtedness scheduled to be outstanding. The premium or cost for all such insurance when written pursuant to the Washington insurance code and regulations issued thereunder, shall not be deemed interest, charges or consideration in connection with the loan transaction and any gain or advantage to the lender arising out of the premium or cost of the insurance or from its sale shall not be a violation of any provision of chapter 31.04 RCW. The amount of the premium or cost of such insurance may be included in the original loan amount and may be paid from the proceeds of the loan.

If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, the credit life and/or accident and health insurance coverage shall be cancelled and a portion of the charge made for such insurance shall be rebated as provided by the Washington insurance code and regulations issued thereunder.

(3) No company shall ~~((make any))~~ charge to or collect from the customer any funds for the cost of filing, recording ((or)), releasing, or reconveyance of mortgages, deeds of trust, security agreements, or other ((instruments)) documents, or for transferring title certificates to ((automobiles unless such charges are or are in fact to

be paid out by the company to the proper officials for such filing, recording, transferring or releasing thereof)) vehicles, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within ten days by the company to public officials or other third parties for such filing, recording, transferring, releasing, or reconveyance thereof. Fees for releasing or reconveying security for the obligation owed to the company may be charged and collected at the time of final payment of the loan.

(4) In the event a company makes a new loan where any part of the proceeds is used to pay the amount due it on an existing loan within four months from date of ~~((the))~~ origination or of the most recent advance upon an existing loan, no charge for investigation fee shall be permitted, unless the investigation fee on the existing loan is refunded.

(5) No industrial loan company may charge and collect an annual fee in excess of eighteen dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(6) No industrial loan company may charge ~~((and))~~ or collect an appraisal fee incurred or to be incurred in appraising security offered by the borrower in excess of the actual costs paid or to be paid to an independent third party professional appraiser. ((No)) Such charge may be made or collected from the borrower for costs of an appraisal at the time of application for the loan or at any time thereafter except as prohibited herein. If the appraisal fee is not collected at the time of application, the customer shall be advised of the amount of that fee at the time of application. If the loan application is rejected by the company, or if the appraisal is inadequate to meet reasonable appraisal requirements for comparable loans from other lending institutions, the company must refund to the borrower any appraisal fee already collected.

(7) Any note which is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date, the unearned portion of the interest shall be refunded using the sum of the digits method commonly known as the "Rule of 78's."

PROVIDED, HOWEVER, That in the case of any loan originally scheduled to be repaid in ~~((sixty-one))~~ thirty-seven months or more which is secured by an investment certificate, the refund of the unearned portion of the interest shall be computed as follows: Interest shall be considered earned at the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded.

For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in

advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent.

In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed 1/30 of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

(8) The maximum amount which may be charged as an investigation fee is two percent of the loan proceeds advanced to or for the direct benefit of the borrower. For a closed-end loan, this means two percent of the "amount financed" disclosed to the borrower pursuant to the federal Truth-in-Lending Act. For an open-end loan, this means two percent of the line of credit established for the borrower under the open-end loan account, not including any "prepaid finance charge". In an open-end loan, the investigation fee shall be collected as funds are actually advanced from time to time to the borrower, but in no event shall the amount so collected in connection with an advance exceed two percent of the amount advanced or, in the aggregate, exceed two percent of the maximum line of credit established for the borrower, less any "prepaid finance charge".

(9) A company may agree with the borrower for the payment by the borrower of the fees charged by a title company in connection with title insurance required by the company in connection with a loan. The borrower has the right to select the person or company by or through whom such title insurance will be offered, subject to the company's reasonable conditions, such as the type of coverage or endorsements, or financial soundness and proper licensing of the company to do business in the state of Washington. The company may select the person or company by or through whom such title insurance will be offered if the borrower does not do so within a reasonable time before the loan transaction is consummated.

WSR 88-13-052
PROPOSED RULES
HOSPITAL COMMISSION
 [Filed June 13, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning rules for reporting hospital patient discharge information, chapter 261-50 WAC;

that the agency will at 9:30 a.m., Thursday, July 28, 1988, in the Seattle Room, West Coast Sea-Tac Hotel,

Seattle, 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 70.39.180 and 34.04.020.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 18, 1988.

Dated: June 13, 1988

By: Maurice A. Click
 Executive Director

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amending chapter 261-50 WAC, rules for reporting hospital patient discharge information.

Purpose of the Amendment: To implement collection of E-codes in the commission hospital abstract reporting system (CHARS).

Statutory Authority: RCW 70.39.180.

Summary of Rule Changes and Statement of Reasons Supporting the Proposed Action: WAC 261-50-035 is a new section requiring hospitals to collect and report up to two ICD-9-CM codes identifying the external cause of injury and poisoning. The commission believes that collection of the broadest possible range of E-codes responds to a societal need for data on the causes of injuries in Washington state; and WAC 261-50-040, 261-50-050, 261-50-060 and 261-50-090 are each amended to incorporate a reference to new section WAC 261-50-035.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of These Rules: Maurice A. Click, Executive Director, Washington State Hospital Commission, 206 Evergreen Plaza Building, 711 South Capitol Way, Mailstop FJ-21, Olympia, Washington 98504, (206) 753-1990.

Name of the Organization Proposing the Rule: Washington State Hospital Commission.

These rules are not necessary to comply with a federal law or a federal or a state court decision.

Pursuant to RCW 19.85.040, the Hospital Commission submits the following small business economic impact statement. The proposed amendments retain provisions for alternative systems of financial reporting and modifications to the uniform reporting system which provide specialized and reduced reporting requirements for small hospitals: WAC 261-20-060, 261-20-074 and 261-50-040. The Hospital Commission believes that these provisions enable small hospitals to report the information required by the statute in the least onerous fashion. The budget and rate review methodology and criteria described in WAC 261-40-150 provide exceptions for hospitals in Peer Group A in order to assure access to necessary health care services in rural areas.

NEW SECTION

WAC 261-50-035 REPORTING OF E-CODES. Effective with hospital patient discharges occurring on or after January 1, 1989, hospitals shall collect and report up to two ICD-9-CM codes identifying the external cause of injury and poisoning (E-Codes), when applicable.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/23/87)

WAC 261-50-040 ACCEPTABLE MEDIA FOR SUBMISSION OF DATA. (~~The following is effective January 1, 1987.~~) For purposes of the data collected and reported pursuant to WAC 261-50-030 and 261-50-035, hospitals shall submit such data in such form as prescribed by the commission in the Procedure Manual for Submitting Discharge Data.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/23/87)

WAC 261-50-050 TIME DEADLINE FOR SUBMISSION OF DATA. Data collected by hospitals pursuant to WAC 261-50-030 and 261-50-035 shall be submitted to the commission or its designee within forty-five days following the end of each calendar month (~~commencing with January 1, 1987~~).

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/23/87)

WAC 261-50-060 EDITS TO DATA. The commission or its designee shall subject the data submitted to the commission pursuant to WAC 261-50-030 and 261-50-035 to the following set of edits:

- (1) Record layout compatibility edits on data submitted in accordance with WAC 261-50-040; and
- (2) Verification of the data set elements set forth in WAC 261-50-030 and 261-50-035.

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 3/30/87)

WAC 261-50-090 PENALTIES FOR VIOLATION. RCW 70-39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform any act which that chapter makes it his/her duty to perform shall be guilty of misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation. Failure to file the information required by WAC 261-50-030, 261-50-035, 261-50-040, 261-50-065 and 261-50-075 shall constitute a violation, and the commission may levy a civil penalty not to exceed one hundred dollars per day for each day following official notice of violation by the commission. The executive director of the commission may grant extensions of time to file the information, in which cases failure to file the information shall not constitute a violation until the extension period has expired.

WSR 88-13-053
PROPOSED RULES
HOSPITAL COMMISSION
 [Filed June 13, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning methodology and criteria for approval, modification, or disapproval of annual budget submittal and rates, rate schedules, other charges and changes therein, WAC 261-40-150 and 261-40-170;

that the agency will at 10:30 a.m., Thursday, July 28, 1988, in the Seattle Room, West Coast Sea-Tac Hotel,

Seattle, 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 70.39.180 and 34.04.020.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 18, 1988.

Dated: June 13, 1988
 By: Maurice A. Click
 Executive Director

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amending WAC 261-40-150 and 261-40-170, regarding cost-justified negotiated rates.

Purpose of the Amendments: To permit a hospital to request approval of a rate adjustment in the form of a deduction from revenue to reflect differential resource use among payers.

Statutory Authority: RCW 70.39.180.

Summary of Rule Changes and Statement of Reasons Supporting the Proposed Action: WAC 261-40-150 (5)(e)(ii) for hospital fiscal years beginning in 1987 and WAC 261-40-150 (5)(f)(ii) for hospital fiscal years beginning on or after January 1, 1988, are being amended to incorporate the provisions of WAC 261-40-170(4); and WAC 261-40-170(4) is amended to provide for a hospital to request the commission to approve a rate adjustment in the form of a deduction from revenue to reflect differences in resource use among payers. The hospital must submit an analysis which adequately demonstrates the differences in resource among payers or groups of payers. Such rate adjustments will only be approved prospectively. Studies have shown that "material cost differences among payer classes" exist in areas, such as fiscal services, including admitting, billing, collection and working capital, medical records, nursing services, and social services. Hospitals have requested the commission to consider this issue in relationship to the provisions that negotiated "rates are cost-justified and do not result in any shifting of costs."

Agency Personnel Responsible for Drafting, Implementation and Enforcement of These Rules: Maurice A. Click, Executive Director, and David B. Smith, Deputy Director, Washington State Hospital Commission, 711 South Capitol Way, Mailstop FJ-21, Olympia, Washington 98504, (206) 753-1990.

Name of the Organization Proposing the Rule Amendments: Washington State Hospital Commission.

These rules are not necessary to comply with a federal law or a federal or a state court decision.

Pursuant to RCW 19.85.040, the Hospital Commission submits the following small business economic impact statement. The proposed amendments retain provisions for alternative systems of financial reporting and modifications to the uniform reporting system which provide specialized and reduced reporting requirements for small hospitals: WAC 261-20-060, 261-20-074 and

261-50-040. The Hospital Commission believes that these provisions enable small hospitals to report the information required by the statute in the least onerous fashion. The budget and rate review methodology and criteria described in WAC 261-40-150 provide exceptions for hospitals in Peer Group A in order to assure access to necessary health care services in rural areas.

AMENDATORY SECTION (Amending Order 88-02, Resolution No. 88-02, filed 5/13/88)

WAC 261-40-150 **METHODOLOGY AND CRITERIA FOR APPROVAL, MODIFICATION, OR DISAPPROVAL OF ANNUAL BUDGET SUBMITTAL AND RATES, RATE SCHEDULES, OTHER CHARGES, AND CHANGES THEREIN.** The following methodology and criteria shall be utilized by the commission in reviewing and acting on annual budget submittals. The relative importance of each criterion, and the extent to which justification for variance from the methodology and criteria is accepted, is a matter of commission discretion:

The following is effective for hospital fiscal years beginning in 1987.

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs;

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit the hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(a) Rural includes all areas of the state with the following exceptions:

(i) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(ii) Areas within a twenty-mile radius of an urban area exceeding thirty thousand population; and

(iii) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) Historical admission trends, including a revised current year estimate derived from seasonally-adjusted quarterly report information;

(ii) Historical trends of outpatient volumes as measured by inflation-adjusted outpatient revenue and outpatient equivalents of admissions;

(iii) Historical trends of the average length of stay;

(iv) Historical case mix indices as obtained from the commission hospital abstract reporting system; and

(v) Such other information as the commission may determine is appropriate as a basis for deviating from measures based upon historical trends including, but not limited to:

(A) Revisions necessary to maintain compliance with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Negotiated rate agreements that guarantee additional volumes related to a purchaser of hospital health care services;

(C) The implementation or deletion of services or programs for which certificate of need approval has been obtained, if required; and

(D) Other considerations presented by the hospital or other interested persons and determined to be appropriate by the commission.

(b) The commission shall utilize a principal screen to compare the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted case mix value unit to the hospital's baseline net patient services revenue per adjusted case mix value unit as calculated in item (i) below and modified by item (ii) below:

(i) Each hospital's baseline net patient services revenue per adjusted case mix value unit shall be calculated by applying to the individual hospital the same methodology utilized by the commission in establishing the volume, operating expense, and capital allowance components of the allocated target dollar amount of total state-wide hospital revenue adopted by the commission in accordance with RCW 70.39.150(6).

(ii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit does not exceed the revised baseline, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of subsection (5)(f), (6), and (7) of this section.

(iii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit exceeds the revised baseline, further review of the components of operating expense and capital allowance will be conducted.

(c) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:

(i) Adjusting the requested level of operating expenses to reflect the adjusted case mix value units as determined according to (a) of this subsection, utilizing the variable cost factors described in subsection (6) of this section;

(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification. National inflation forecasts will be modified to reflect regional or state-wide economic conditions, as appropriate;

(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios specified in subsection (6) of this section or inflation forecasts. This information shall include but not be limited to:

(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;

(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;

(D) Volume adjustments of a magnitude which render the standard variable cost factors described in subsection (6) of this section inappropriate; and

(E) Other consideration presented by the hospital and determined to be appropriate by the commission.

(d) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:

(i) Capital allowance includes a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations, an allowance for working capital, and other considerations as determined to be appropriate by the commission.

(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.

(I) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services;

(II) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.

(B) A return on net property, plant and equipment as determined in (I), (II), and (III) below shall be presumed appropriate; however, the commission may vary from that rate, higher or lower, where appropriate.

(I) The rate of return on equity financed net property, plant and equipment shall be calculated by averaging the reported interest rates on twenty-five-year "A" rated tax-exempt bonds as reported in each issue of Rate Controls from the three months ending on August 31 of each year.

(II) The rate of return on debt financed net property, plant and equipment shall be a blended average of each hospital's average interest rate on long-term debt and the rate of return on equity financed net property, plant and equipment. The blending schedule is as follows:

(aa) For hospital fiscal years beginning in 1987: Seventy-five percent - each hospital's average interest rate on long-term debt, twenty-five percent - rate of return on equity financed net property, plant and equipment;

(bb) For hospital fiscal years beginning in 1988: Fifty percent - each hospital's average interest rate on long-term debt, fifty percent - rate of return on equity financed net property, plant and equipment;

(cc) For hospital fiscal years beginning in 1989: Twenty-five percent - each hospital's average interest rate on long-term debt, seventy-five percent - rate of return on equity financed net property, plant and equipment;

(dd) For hospital fiscal years beginning in 1990 and each year thereafter: Zero percent - each hospital's average interest rate on long-term debt, one hundred percent - rate of return on equity financed net property, plant and equipment.

(III) After computation of the return on net property, plant and equipment, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to thirteen and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

(I) The commission may determine that a hospital which is found essential to assure access of the rural public to basic health care services is experiencing financial distress and may determine to vary from the allowance for working capital.

(II) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

(I) Hospitals that have been undercapitalized as determined by an average accounting age of property, plant and equipment which exceeds one hundred fifty percent of the state-wide average; and a total turnover rate of assets which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest Hospital Industry Financial Report of the healthcare financial management association or a fixed asset turnover rate which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest Hospital Industry Financial Report of the healthcare financial management association, provided that:

(aa) The total level of capital allowance for undercapitalized hospitals should not exceed one hundred twenty-five percent of the baseline level; and

(bb) The requested rate per adjusted admission, as revised to reflect the hospital's case mix index, does not exceed the peer group median; and

(cc) The resulting increase in the rate per adjusted case mix value unit does not exceed one hundred twenty-five percent of the baseline median rate of increase.

(II) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

(III) If the hospital has been approved for equity funding or accumulation of funds for a project in the future and its rate per adjusted case mix value unit is at or below the median of its peer group, the proposed project is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body, the proposed project is consistent with the health systems plan of the appropriate health systems agency, and any equity funding allowed in total rate setting revenue is maintained in a separate subaccount within board designated assets and cannot be used for any other purpose without prior approval of the commission; and

(IV) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission.

(e) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as Titles V, XVIII, XIX of the Social Security Act, Department of Labor and Industries, self-insured workers' compensation, Veteran's Administration, and Indian Health Service are allowable as deductions from revenue for rate setting purposes when the hospital payment rates are established unilaterally by the program;

(ii) Contractual adjustments related to bank card discounts, negotiated rates and all other nongovernmental-sponsored patients are not allowable as deductions from revenue for rate setting purposes, except as provided for by WAC 261-40-170(4);

(iii) Contractual adjustments relating to contracts executed with the department of social and health services, under the Medicaid selective contracting program, are allowable as deductions from revenue for rate setting purposes;

(iv) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(v) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification; and

(vi) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

(f) Whether the reviews performed in accordance with (a), (b), (c), (d) and (e) of this subsection result in rates, rate schedules, other charges, and changes therein which are the most reasonable under the circumstances.

(i) Rate setting revenue per adjusted case mix value unit should not exceed the 70th percentile of the peer group revenue screens as adjusted for each hospital's case mix index unless the hospital demonstrates to the commission's satisfaction that the relatively high rates are acceptable.

(ii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria including the relative level of deductions from revenue experienced by the hospitals;

(iii) If the rates are not approved as requested, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order.

(6) Whether the rates implemented and revenues collected by the hospital conform to the applicable commission determinations.

(a) For budget years beginning on or before 1986, conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of either the aggregate rate per adjusted patient day, or the revenues for individual revenue centers, as either may be modified, where appropriate, for volume variance between budgeted and actual levels; such comparison shall be made using actual, rather than budgeted, deductions from revenue.

The approved capital allowance shall be considered a fixed cost when considering year-end conformance. Only that portion of total costs per patient day designated as variable according to the following schedule will be adjusted for volume variance:

Peer groups 1 and 2 and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent.

Peer groups 3 and 4 and specialty hospitals having fifty or more beds; fixed costs - seventy percent, variable costs - thirty percent.

Peer groups 5 and 6 hospitals; fixed costs - sixty percent, variable costs - forty percent.

Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs, either in the aggregate or by revenue center. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable revenue variance due to volume changes.

The hospital may submit any justifying information to explain deviations/variances from approved revenues.

(b) For budget year 1987, conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of the aggregate rate per adjusted case mix value unit. The revenues may be modified, where appropriate, for volume variance between budgeted and actual levels of adjusted case mix value units.

(i) Actual allowable, rather than budgeted, deductions from revenue will be used in the conformance calculation.

(ii) The approved capital allowance shall be considered a fixed cost when considering year-end conformance.

(iii) Only that portion of total operating costs designated as variable according to the following schedule will be adjusted for volume variance:

(A) Peer Group A and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent;

(B) Peer Group B and specialty hospitals having from fifty to one hundred seventy-five beds; fixed costs - sixty-five percent, variable costs - thirty-five percent;

(C) Peer Group C and specialty hospitals having more than one hundred seventy-five beds; fixed costs - fifty percent, variable costs - fifty percent.

(iv) Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs by natural classification of expense. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable operating expense variance due to volume changes.

(v) The hospital may submit any proposed justifying information to explain deviations/variances from approved revenues.

(A) Any proposed justifying information must include at least the following supporting information:

(I) The exact nature and extent of the factors contributing to excess revenue;

(II) The date at which hospital management became aware of the factors contributing to excess revenue;

(III) The date at which hospital management increased rates above the allowable level taking into account volume changes and actual deductions from revenue;

(IV) An explanation of efforts to reduce other components of the budget to offset the factors contributing to the excess revenues; and

(V) An explanation of why the hospital did not seek a budget amendment.

(B) In no event will increased operating expenses be accepted as justification if the volume adjusted allowable operating expenses equal or exceed the actual level.

(C) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been controlled by hospital management.

(D) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been anticipated by the hospital or could have been identified by the hospital in sufficient time to submit a budget amendment in accordance with WAC 261-20-045.

(E) In no event will capital allowance in excess of the approved level be accepted as justification.

(F) Hospitals will be allowed to retain any actual capital allowance in excess of the approved level that results from cost effective practices as defined as, and measured by, actual operating expenses that are below the volume adjusted approved operating expenses.

(vi) Staff shall notify each hospital found to be out of conformance based on this subsection, and a hearing shall be conducted by the commission on conformance within sixty days. If the commission determines that a hospital's revenues have not conformed to the applicable determinations for that year, a decision and order will be issued reducing the hospital's current budget and rates by the amount that actual revenues exceed allowable revenues.

(7) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services;

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

The following is effective for hospital fiscal years beginning on or after January 1, 1988.

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs; and

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit the hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(a) Rural includes all areas of the state with the following exceptions:

(i) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(ii) Areas within a twenty-mile radius of an urban area exceeding thirty thousand population; and

(iii) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

(b) The commission may, at its discretion, determine that individual hospitals located in areas meeting the aforementioned criteria should not be considered rural for purposes of conducting comparative budget reviews between hospitals. In such cases, the affected hospitals will be compared against those hospitals classified as either Peer Group B or Peer Group D for comparative purposes.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) For purposes of conducting comparative budget review, the commission shall assign each hospital to a peer group, as follows:

(i) Peer Group A - those hospitals designated as rural in accordance with WAC 261-40-150 (3)(a);

(ii) Peer Group B - those hospitals not designated within Peer Groups A, C, or D;

(iii) Peer Group C - those hospitals with accredited graduate medical education programs, except those that are classified within Peer Group D; and

(iv) Peer Group D - those hospitals which the commission has determined exhibit unique characteristics that make comparative analysis inappropriate.

(b) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) The adjusted case mix value units for each hospital which were used to develop the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue; and

(ii) Maintaining a reasonable relationship between the volumes of each hospital department with the adjusted case mix value units which were used to develop the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue.

(A) Deviations from the volume levels determined through these procedures will be taken into account in the computation of year-end conformance, as described in WAC 261-40-150(6).

(c) The commission shall utilize a principal screen to compare the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted case mix value unit to the hospital's baseline net patient services revenue per adjusted case mix value unit as calculated in item (i) below and applied by items (ii), (iii), and (iv) below:

(i) Each hospital's baseline net patient services revenue per adjusted case mix value unit shall be calculated as follows:

(A) Baseline adjusted case mix value units shall be equal to the level utilized by the commission in establishing the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue;

(B) Baseline operating expenses shall be equal to the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue; and

(C) Baseline capital allowance shall be determined as an allocated amount of the capital allowance component of the target dollar amount of total state-wide hospital revenue. The allocation of the state-wide capital allowance component of the target dollar amount of total state-wide hospital revenue shall be calculated as follows:

(I) Each hospital's 1987 baseline capital allowance will be divided by the sum of all hospitals' 1987 baseline capital allowances; and

(II) The ratio resulting from (I) above shall be multiplied against the 1988 capital allowance component of the target dollar amount of total state-wide hospital revenue.

(ii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit does not exceed the revised baseline, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of subsections (5)(g), (6), and (7) of this section.

(iii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit exceeds the revised baseline, further review of the components of operating expense and capital allowance will be conducted.

(iv) Peer Group A hospitals with requested net revenues per adjusted case mix value unit which are at or below the 70th percentile for their peer group, and which are increasing from the current year approved level at a percentage change which is at or below the 70th percentile rate of change for the peer group, shall be exempted from the principal screen review and the review of operating expenses and capital allowance, so long as the budgeted adjusted case mix value units appear to be reasonably attainable.

(d) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:

(i) Adjusting the requested level of operating expenses to reflect the adjusted case mix value units as determined according to (5)(b) of this section, utilizing the variable cost factors described in subsection (6) of this section;

(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification. National inflation forecasts will be modified to reflect regional or state-wide economic conditions, as appropriate; and

(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios specified in subsection (6) of this section or inflation forecasts. This information shall include but not be limited to:

(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if requested;

(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;

(D) Volume adjustments of a magnitude which render the standard variable cost factors described in subsection (6) of this section inappropriate; and

(E) Other consideration presented by the hospital or other concerned persons and determined to be appropriate by the commission, including the impact that the acceptance of operating expense increases above the baseline level would have on the commission's ability to achieve total state-wide revenue that are within the target dollar amount of total state-wide hospital revenue as adopted by the commission in accordance with RCW 70.39.150(6), and comparative analysis of the hospital's operating expenses with hospitals within the same peer group.

(e) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:

(i) Capital allowance includes a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations, an allowance for working capital, and other considerations as determined to be appropriate by the commission.

(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.

(I) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services.

(II) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.

(B) A return on net property, plant and equipment as determined in (I), (II), and (III) below shall be presumed appropriate; however, the commission may vary from that return, higher or lower, where appropriate.

(I) The rate of return on equity financed net property, plant and equipment shall be calculated by averaging the reported interest rates on twenty-five year "A" rated tax-exempt bonds as reported in each issue of Rate Controls from the three months ending on August 31, 1987.

(II) The rate of return on debt financed net property, plant and equipment shall be a blended average of each hospital's average interest rate on long-term debt and the rate of return on equity financed net property, plant and equipment. The blending schedule is as follows:

(aa) For hospital fiscal years beginning in 1988: Fifty percent - each hospital's average interest rate on long-term debt, fifty percent - rate of return on equity financed net property, plant and equipment;

(bb) For hospital fiscal years beginning in 1989: Twenty-five percent - each hospital's average interest rate on long-term debt, seventy-five percent - rate of return on equity financed net property, plant and equipment;

(cc) For hospital fiscal years beginning in 1990 and each year thereafter: Zero percent - each hospital's average interest rate on long-term debt, one hundred percent - rate of return on equity financed net property, plant and equipment.

(III) After computation of the return on net property, plant and equipment, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to thirteen and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

(I) The commission may determine that a hospital which is found essential to assure access of the rural public to basic health care services is experiencing financial distress and may determine to vary from the allowance for working capital.

(II) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable. In the event that increased working capital is determined by the commission to be necessary, but the amount of working capital is

found by the commission to cause an excessive impact on total revenues or rates, the commission may choose to allow the hospital to borrow the necessary cash and to allow interest on borrowed cash as an operating expense in the budget year.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

(I) Rural hospitals that have been under-capitalized as determined by an average accounting age of property, plant and equipment which exceeds one hundred fifty percent of the state-wide average; and a total turnover rate of assets which exceeds the upper quartile of far west hospitals of the same size category as defined in the latest "Hospital Industry Financial Report" of the healthcare financial management association or a fixed asset turnover rate which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest "Hospital Industry Financial Report" of the healthcare financial management association, provided that:

(aa) The total level of capital allowance for under-capitalized hospitals should not exceed one hundred twenty-five percent of the baseline level; and

(bb) The requested rate per adjusted admission, as revised to reflect the hospital's case mix index, does not exceed the peer group median; and

(cc) The resulting increase in the rate per adjusted case mix value unit does not exceed one hundred twenty-five percent of the budgeted peer group median rate of increase.

(II) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

(III) Whether the capital allowance should include equity funding or accumulation of funds for a project in the future, if the hospital's rate per adjusted case mix value unit is at or below the median of its peer group, the proposed project is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body, and any equity funding allowed in total rate setting revenue is maintained in a separate subaccount within board designated assets and cannot be used for any other purpose without prior approval of the commission;

(IV) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission; and

(V) Other considerations proposed by the hospital or other interested persons and determined to be appropriate by the commission, including the impact that any deviation from the baseline capital allowance will have on the commission's ability to achieve total state-wide hospital revenue that do not exceed the target dollar amount of total state-wide hospital revenue as adopted by the commission in accordance with RCW 70.39.150(6).

(f) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as Titles V, XVIII, XIX of the Social Security Act, Department of Labor and Industries, self-insured workers' compensation, Veteran's Administration, and Indian Health Service are allowable as deductions from revenue for rate setting purposes when the hospital payment rates are established unilaterally by the program.

(ii) Contractual adjustments related to bank card discounts, negotiated rates and all other nongovernmental-sponsored patients are not allowable as deductions from revenue for rate setting purposes, except as provided for by WAC 261-40-170(4);

(iii) Contractual adjustments relating to contracts executed with the department of social and health services, under the Medicaid selective contracting program, are allowable as deductions from revenue for rate setting purposes;

(iv) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(v) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification; and

(vi) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

(g) Whether the reviews performed in accordance with (a), (b), (c), (d), (e) and (f) of this subsection result in rates, rate schedules, other charges, and changes therein which are the most reasonable under the circumstances.

(i) Rate setting revenue per adjusted case mix value unit should not exceed the 70th percentile of the peer group revenue screens as adjusted for each hospital's case mix index unless the hospital demonstrates to the commission's satisfaction that the relatively high rates are acceptable;

(ii) After allocating deductions from revenue and capital allowance to the various hospital revenue centers as a constant percentage of operating expenses, cross subsidization shall not exceed plus or minus five percent of expenses for rate setting, unless the commission concurs with a specific hospital request for larger levels of cross subsidization or the hospital is a basic service hospital as defined by the commission.

(iii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria including the relative level of deductions from revenue experienced by the hospitals;

(iv) If the rates are not approved as requested, including the disapproval of requested cross-subsidization levels, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order. Upon notification that the rates are in accordance with the decision and order, the approved rates are the maximum revenue that a hospital may receive for each unit of service, except for such rate changes as may be necessary to reflect differences between approved and actual volumes and deductions from revenue. Variable costs associated with changes in volumes will be determined in accordance with the variable cost ratios as described in (6)(d) below.

(6) Whether the rates implemented and revenues collected by the hospital in the previous budget year conformed to the applicable commission determination for that year.

(a) Conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of the aggregate rate per adjusted case mix value unit. The revenues may be modified, where appropriate, for volume variance between budgeted and actual levels of adjusted case mix value units.

(b) Actual allowable, rather than budgeted, deductions from revenue will be used in the conformance calculation.

(c) The approved capital allowance shall be considered a fixed cost when considering year-end conformance.

(d) Only that portion of total operating costs designated as variable according to the following schedule will be adjusted for volume variance:

(i) Peer Group A and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent;

(ii) Peer Group B and specialty hospital having from fifty to one hundred seventy-five beds; fixed costs - sixty-five percent, variable costs - thirty-five percent; and

(iii) Peer Group C and specialty hospitals having more than one hundred seventy-five beds; fixed costs - fifty percent, variable costs - fifty percent.

(e) Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs by natural classification of expense. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable operating expense variance due to volume changes.

(f) The hospital may submit any proposed justifying information to explain deviations/variances from approved revenues.

(i) Any proposed justifying information must include at least the following supporting information:

(A) The exact nature and extent of the factors contributing to excess revenue;

(B) The date at which hospital management became aware of the factors contributing to excess revenue;

(C) The date at which hospital management increased rates above the allowable level taking into account volume changes and actual deductions from revenue;

(D) An explanation of efforts to reduce other components of the budget to offset the factors contributing to the excess revenues; and

(E) An explanation of why the hospital did not seek a budget amendment.

(ii) In no event will increased operating expenses be accepted as justification if the volume adjusted allowable operating expenses equal or exceed the actual level.

(iii) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been controlled by hospital management.

(iv) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been anticipated by the hospital or could have been identified by the hospital in sufficient time to submit a budget amendment in accordance with WAC 261-20-045.

(v) In no event will capital allowance in excess of the approved level be accepted as justification.

(vi) Hospitals will be allowed to retain any actual capital allowance in excess of the approved level that results from cost effective practices as defined as, and measured by, actual operating expenses that are below the volume adjusted approved operating expenses.

(g) Staff shall notify each hospital found to be out of conformance within sixty days of receiving the hospital's year-end conformance reports. If the commission determines that a hospital's revenues have not conformed to the applicable determinations for that year, a decision and order will be issued reducing the hospital's current budget and rates by the amount that actual revenues exceed allowable revenues.

(7) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services; and

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

AMENDATORY SECTION (Amending Order 86-01, Resolution No. 86-01, filed 5/16/86)

WAC 261-40-170 NEGOTIATED RATES. (1) After July 1, 1985, any hospital may negotiate with and charge any particular payer or purchaser rates that are less than those approved by the commission, if:

(a) The rates are cost justified; and

(b) The rates do not result in any shifting of costs to other payers or purchasers in the current or any subsequent year; and

(c) The rates do not result in any policies which limit access to individuals who are unable to pay or for whom the hospital receives less than anticipated charges for or costs of necessary health care services; and

(d) All the terms of such negotiated rates are filed with the commission within ten working days and made available for public inspection.

(2) Within ten working days after the contract is signed, the hospital must submit full disclosure of each negotiated rate, including:

(a) The names of the parties to the negotiation;

(b) The period of time covered by the agreement;

(c) The negotiated rate or the amount of the reduction from the rate approved by the commission; and

(d) Any other terms or conditions related to the negotiated rates.

(3) Following publication of a negotiated rate as required by ~~((WAC 261-40-170(8)))~~ subsection (7) of this section, each hospital shall make the information reported in ~~((WAC 261-40-170(2)))~~ subsection (2) of this section for that negotiated rate available to the public upon request.

(4) The differential between billed charges, based on the hospital's full established rates, and the payment received, based on the negotiated rate, must be separately identified for each negotiated contract and reported on lines 23-31, Form SS-8 deductions from revenue. These amounts are "memo" only and may not be allocated to other payers or purchasers in the current or any subsequent year; provided that, the commission may, upon request from a hospital, approve a rate adjustment in the form of a deduction from revenue, as necessary to reflect differential resource use, and the rates for each unit of service shall be adjusted accordingly. Any hospital requesting such rate adjustment shall submit an analysis acceptable to the commission, demonstrating the differences in resource use among payers or groups of payers. Such rate adjustments and related deductions from revenue shall only be applicable to the current or future budget periods and rates may not be adjusted until such adjustments are approved by the commission. Requests for rate adjustments contained in requests for budget amendments may be approved only for the current or future

budget periods and such approval will not be applicable to rates charged in prior budget periods.

(5) The commission shall review a negotiated rate upon the request of any concerned party. Such a request shall include the following:

(a) Identification of the party requesting the review;

(b) Identification of the particular negotiated rate involved;

(c) A clear statement of the violation alleged, e.g., it is not cost justified; it results in a cost shift to other payers or purchasers; or it does not otherwise conform with the provisions of RCW 70.39.140;

(d) A statement of how the party is affected by the negotiated rate;

(e) Evidence supporting the party's claim; and

(f) The action requested of the commission.

(6) If upon review the negotiated rate is found to contravene any provision of RCW 70.39.140, the commission may disapprove such rate. Such disapproval shall be effective as of the date of the commission's order disapproving the negotiated rate. Once a negotiated rate is disapproved by the commission, the hospital may no longer charge such rate.

(7) The commission will publish on meeting agendas a list of all negotiated rates filed by hospitals, including the names of the parties to the negotiation, within thirty days after filing.

~~((8) The provisions of WAC 261-40-170 apply to all negotiated rates in effect on or after July 1, 1985.))~~

WSR 88-13-054

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed June 13, 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 356-42-020	Determination of bargaining unit.
New	WAC 356-42-042	Election provisions—General.
Amd	WAC 356-42-043	Union shop requirements.
Amd	WAC 356-42-045	Union shop elections.
New	WAC 356-42-049	Disclaimer of interest petition—Decertification of exclusive representative.
Amd	WAC 356-42-055	Arbitration—Grievance—Procedure.
Amd	WAC 356-42-082	Filing unfair labor practice charge.
Amd	WAC 356-42-084	Answer to complaint—Unfair labor practice.
New	WAC 356-42-105	Requests for mediation and arbitration;

that the agency will at 10:00 a.m., Thursday, July 14, 1988, in the Board Hearings Room, Department of Personnel, 521 South Capital Way, 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 July 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-10-029 filed with the code reviser's office on May 3, 1988.

Dated: June 13, 1988

By: Leonard Nord
Secretary

WSR 88-13-055

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed June 13, 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 356-10-030 Position—Allocation—Reallocation.
- Amd WAC 356-10-050 Employee appointment status;

that the agency will at 10:00 a.m., Thursday, July 14, 1988, in the Board Hearings Room, Department of Personnel, 521 South Capital Way, 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 July 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-10-031 filed with the code reviser's office on May 3, 1988.

Dated: June 13, 1988
By: Leonard Nord
Secretary

WSR 88-13-056

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed June 13, 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 356-05-451 Agency shop.
- New WAC 356-05-452 Agency shop representative.
- New WAC 356-05-456 Agency shop nonassociation fee.
- New WAC 356-05-461 Agency shop representation fee.
- Amd WAC 356-42-010 Membership in employee organization.
- Amd WAC 356-42-043 Union shop requirements.
- Amd WAC 356-42-045 Union shop elections.
- Amd WAC 356-42-047 Union shop decertification.
- Amd WAC 356-42-050 Contents of written agreements.
- Amd WAC 356-42-060 Unfair labor practices for management.
- Amd WAC 356-42-070 Unfair labor practices for employee organizations.
- Rep WAC 356-05-450 Union shop.
- Rep WAC 356-05-455 Union shop fee.
- Rep WAC 356-05-460 Union shop representative;

that the agency will at 10:00 a.m., Thursday, July 14, 1988, in the Board Hearings Room, Department of Personnel, 521 South Capital Way, 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 July 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-10-030 filed with the code reviser's office on May 3, 1988.

Dated: June 13, 1988
By: Leonard Nord
Secretary

WSR 88-13-057

NOTICE OF PUBLIC MEETINGS

THE EVERGREEN STATE COLLEGE

[Memorandum—June 9, 1988]

Following are changes to the meeting schedule submitted on December 11, 1987:

August – change from August 10 to Wednesday, August 17, 1988, at 1:30 p.m.

September – change from September 14 to Tuesday, September 20, 1988, at 1:30 p.m.

December – change from December 9 to Wednesday, December 14, 1988, at 9:00 a.m.

The location remains The Evergreen State College board of trustee's room (Library 3112).

WSR 88-13-058

PROPOSED RULES

STATE PATROL

(Commission on Equipment)

[Filed June 14, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Patrol intends to adopt, amend, or repeal rules concerning towing businesses, repealing chapter 204-91 WAC and adopting chapter 204-91A WAC;

that the agency will at 9 a.m., Thursday, July 28, 1988, in the Supply Facility Conference Room, 4242 Martin Way, 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 46.37.005, 46.55.050 and 46.61.567.

The specific statute these rules are intended to implement is RCW 46.37.005, 46.55.050 and 46.61.567.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 28, 1988.

Dated: June 14, 1988
By: Lt. L. E. Klewin
E.S.R. Section Commander

STATEMENT OF PURPOSE

Title: Repeal chapter 204-91 WAC and adopt chapter 204-91A WAC, Towing businesses.

Description of Purpose: To clarify the equipment, performance, pricing and operating practices required of tow operators.

Statutory Authority: RCW 46.37.005, 46.55.050 and 46.61.567.

Specific Statute Rule is Intended to Implement: RCW 46.37.005, 46.55.050 and 46.61.567.

Summary of Rule: Establishes minimum standards for tow truck equipment and businesses.

Reasons Supporting Proposed Action: To repeal obsolete or unnecessary provisions of existing rules and adopt rules that conform to current needs.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lieutenant LaVere E. Klewin, phone 438-7219.

Person or Organization Proposing Rule and Whether Public, Private, or Governmental: Washington State Patrol, governmental.

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

Whether Rule is Necessary as a Result of Federal or State Court Action: No.

Small Business Economic Impact Statement: None.

**Chapter 204-91A WAC
TOWING BUSINESSES**

WAC

204-91A-010	Authority.
204-91A-020	Purpose.
204-91A-030	Definitions.
204-91A-041	Inspections.
204-91A-051	Certification.
204-91A-081	Application for letter of appointment.
204-91A-100	Issuance of a letter of appointment.
204-91A-110	Suspension or revocation of letter of appointment.
204-91A-120	Procedure.
204-91A-130	Appeal.
204-91A-140	Complaints.
204-91A-150	Business office and business hours.
204-91A-160	Towing procedure.
204-91A-170	Tow zones.
204-91A-180	Minimum equipment standards for tow trucks by classification.
204-91A-190	Vehicle towing/operator qualifications, restrictions, and requirements.

NEW SECTION

WAC 204-91A-010 **AUTHORITY.** This chapter is adopted pursuant to RCW 46.37.005, 46.55.010, 46.55.050, 46.55.170, 46.55.180, and 46.61.567 which require that rules, regulations, and equipment standards for tow trucks be made to provide for the removal from the highway of disabled, abandoned, or damaged motor vehicles, or the removal of vehicles when the driver is intoxicated or otherwise incompetent. Such regulations are intended to apply only when the removal is done by a registered tow truck operator upon the request of an officer of the Washington state patrol.

NEW SECTION

WAC 204-91A-020 **PURPOSE.** This chapter is intended to implement the public policy expressed by the legislature and to carry out the statutory duties of the Washington state patrol.

All registered tow truck operators providing service to the public through calls received from the Washington state patrol shall conduct their operations in accordance with all applicable laws of the state of

Washington and all applicable rules of the Washington state patrol and the department of licensing.

NEW SECTION

WAC 204-91A-030 **DEFINITIONS.** The following definitions shall apply throughout this chapter:

- (1) "Patrol" means the Washington state patrol as defined in RCW 43.43.010.
- (2) "Chief" means the chief of the Washington state patrol.
- (3) "Department" means the Washington state department of licensing.
- (4) "Director" means the director of the department of licensing.
- (5) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.
- (6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles, or in the disposal of abandoned vehicles.
- (7) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing or otherwise transporting other vehicles with specific equipment approved by the state patrol.
- (8) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.
- (9) "Tow truck service" means the towing, moving, transporting, or impounding of vehicles, together with personal effects and cargo, by a registered tow truck operator utilizing equipment approved by the equipment and standards review section (ESR) of the patrol.
- (10) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (11) "Place of business" means a building which the registered tow truck operator occupies, either continuously or at regular times, where tow business books and records are kept and tow business is transacted in each assigned tow zone.
- (12) "Vehicle storage area" means the approved yard or enclosed building where stored vehicles are kept. This storage area and fencing will comply with the requirements as established by the department of licensing and all local zoning rules and regulations.
- (13) "District commander" means the commanding officer of an area established by the Washington state patrol.
- (14) "Inspector" means a commissioned officer of the Washington state patrol who has been designated as a tow truck inspector by the patrol.
- (15) "Tow zone" means that geographical area designated by the district commander for the removal of vehicles as defined in Title 46 RCW and this chapter.
- (16) "ESR" means the equipment and standards review section of the Washington state patrol.
- (17) "Letter of appointment" means a letter issued by the ESR that authorizes a registered tow truck operator to tow on a rotational or contractual basis for the Washington state patrol.

NEW SECTION

WAC 204-91A-041 **INSPECTIONS.** Upon the request of a registered tow operator or applicant, the patrol shall conduct an inspection of the applicant's place of business, facilities, and equipment to determine if the applicant meets the requirements of chapter 46.55 RCW, or Titles 308 and/or 204 WAC. Verification must be shown to the inspector that the applicant complies with all applicable local laws and regulations as prescribed for the geographical area where the towing business will be established. If local zoning regulations are applicable, a copy of the certification of approval from the local zoning commission will be furnished to the inspector. This certification may be included in the department's application form for license. The certification will become a part of the permanent record maintained on each approved towing firm by the ESR.

- (1) Reinspections will be conducted at least once a year. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of tow trucks, facilities, and business records.
- (2) If reinspection of a previously-approved tow truck reveals equipment defects, one of the following procedures shall apply:
 - (a) In the event of a safety-related defect which would render the tow truck a safety hazard upon the public highway, a red "out-of-service" sticker shall be affixed immediately.

(b) In the event of missing or defective equipment that does not constitute a safety hazard but is required, the inspector shall advise the operator of the defect. If after ten days the operator fails or refuses to repair the defect, the red out-of-service sticker shall be affixed.

(c) Upon confirming the satisfactory repair of the defect or defects that caused the tow truck to be taken out of service, the inspector shall remove the red sticker. In the event that the original inspector is not available to reinspect the equipment, another patrol officer appointed by the appropriate supervisor may do so. The reinspection shall be completed as soon as possible after the operator advises the patrol that the defect has been repaired. This shall be done within three days and may require the operator to bring the truck to the inspector.

(d) Upon sale or other transfer of a tow truck from the business, the operator shall so advise the inspector who will obtain the issued cab card permit. This permit will be forwarded to the department by the inspector who will also advise the ESR of the action taken.

(e) Upon the purchase or acquisition of any additional or replacement tow truck(s) to be used pursuant to this chapter, the operator shall immediately notify the patrol and request an inspection of the new unit. The new unit shall not be used for public or private impound calls until satisfactory inspection is completed and a cab card permit for the vehicle has been issued by the department.

NEW SECTION

WAC 204-91A-051 CERTIFICATION. After inspection of the towing business facilities and equipment, the inspector will certify one of the following:

(1) The towing operation of the applicant fully conforms to the requirements and qualification standards established by the Revised Code of Washington, the department, and the patrol; or

(2) The towing operation of the applicant does not conform to the requirements and qualification standards. The inspector shall state the reasons for failure to qualify in a separate report which shall be attached to the application/inspection form.

In the event the applicant fails to meet the established requirements for approval, the applicant may request a reinspection for certification.

NEW SECTION

WAC 204-91A-081 APPLICATION FOR LETTER OF APPOINTMENT. (1) An application for a letter of appointment will not be considered or approved until the applicant is qualified as a licensed and registered tow truck operator with at least one approved "A" class tow truck. Additional trucks are optional. Upon request, the ESR shall advise the applicant of the contents of the department's regulations and of the standards established for the issuance of a letter of appointment.

(2) An application for a letter of appointment to provide towing service for the patrol shall be filed by the applicant with the local state patrol district office on a form prescribed by the patrol. In the case of a partnership, each partner shall apply on the form prescribed. In the case of a corporation, the patrol may require that each of the present and any subsequent officers, managers, and stockholders holding ten percent or more of the total issued and outstanding stock of the applicant corporation complete an application form.

(3) The district commander or designee shall complete tow zone portion of the form. He/she will enter "approved" or "disapproved" and will sign the form next to the zone designation.

(4) The application form will be assigned a docket number which shall be its permanent identification number for all matters relating to appointments, granted or denied, and any other correspondence with the ESR thereafter.

(5) The filing of an application for a letter of appointment does not in itself authorize the operator to provide towing services pursuant to this chapter until a letter of appointment has been issued by the ESR. However, nothing herein shall prohibit the patrol from calling the towing business upon the specific request of a person responsible for a vehicle or his agent.

NEW SECTION

WAC 204-91A-100 ISSUANCE OF A LETTER OF APPOINTMENT. (1) No towing operator shall be called to perform a towing service at the request of the patrol unless such operator has a letter of appointment as described in this chapter. No such letter of

appointment will be issued unless all qualifications set out in this chapter have either been met by the applicant, or a waiver of those qualifications not met has been granted by the ESR.

(2) The ESR commander shall have the authority to issue letters of appointment upon request after receiving certification from the inspector and notice from the department that the requestor has been licensed as a registered tow truck operator.

If the patrol shall find the requestor does not or will not meet all requirements and is not qualified for a waiver of the requirements, then such request shall be denied. The patrol shall notify the requestor of its decision in writing, stating the reasons. If the request is approved, the ESR commander will issue the letter of appointment and forward it to the district commander for delivery to the tow operator. After the letter has been delivered, the tow company will be admitted to the patrol's call list for the appropriate tow zone.

If the district commander recommends denial of a request for a letter of appointment, the ESR commander shall notify the applicant and provide an opportunity for applicant to have a hearing as provided in chapter 34.04 RCW.

(3) A letter of appointment will be valid only in a single tow zone assigned by the district commander. Requests for additional letters of appointment in the same or another zone must be based on a complete and separate place of business capable of independent operation within the appropriate zone.

(4) A tow operator (or a district commander) may petition the ESR in writing for a waiver of one or more requirements. The ESR may grant a waiver if it finds that:

(a) The towing service available to the patrol without the waiver is inadequate to meet the needs of the public;

(b) The request is otherwise reasonable; and

(c) The request has the district commander's approval.

In the event a qualified tow operator meeting all requirements and qualifications receives a letter of appointment in the same zone as a tow operator that had earlier been granted a waiver, the tow operator with a waiver will have the letter of appointment rescinded by the ESR and after notification will not be called for patrol-initiated tows.

(5) Every letter of appointment shall be issued in the name of the applicant and the holder thereof shall not allow any other person or business to use the letter of appointment.

(6) The letter of appointment will only be valid for the place of business named on the application and will not apply to any other place of business.

(7) A letter of appointment shall be valid until suspended, superseded, or revoked by the ESR.

(8) The holder of each letter of appointment must maintain at least one tow truck meeting the minimum class "A" standards listed in WAC 204-91A-180.

NEW SECTION

WAC 204-91A-110 SUSPENSION OR REVOCATION OF LETTER OF APPOINTMENT. Upon receiving evidence that any appointee has failed to comply or no longer complies with any requirement or provision of law or this chapter, the ESR may deny, suspend, or revoke the letter of appointment. The appointee shall be given notice of the action and an opportunity to be heard as prescribed in chapter 34.04 RCW.

The holder of a letter of appointment may voluntarily relinquish the letter. The ESR and the district commander will be advised in writing of this voluntary relinquishment. After receiving written notice, the district commander will cause the inspector to physically obtain the original letter of appointment and forward it to the ESR.

NEW SECTION

WAC 204-91A-120 PROCEDURE. The provisions of chapter 1-08 WAC shall govern the conduct of any hearing held pursuant to this chapter. The burden of proof in any hearing before the chief shall be on the applicant seeking a letter of appointment, or the person or agency seeking the suspension or revocation of a letter of appointment, or other action by the chief. The chief, after having heard and considered all pertinent evidence, or after having considered a record of a hearing conducted by an administrative law judge duly appointed pursuant to chapter 34.12 RCW, shall make written findings of facts and conclusions based on evidence presented. Oral proceedings shall be recorded on tape and such tape shall become part of the hearing record.

NEW SECTION

WAC 204-91A-130 APPEAL. Any person aggrieved by a decision of the chief denying, suspending, or revoking a letter of appointment may appeal such decision to the superior court under the provisions of chapter 34.04 RCW.

NEW SECTION

WAC 204-91A-140 COMPLAINTS. All law enforcement or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with supporting documents, including all results from the complaint investigation, to the department.

(1) Those complaints investigated by the patrol will be reviewed by the ESR commander before forwarding to the department.

(2) The patrol shall investigate all complaints involving deficiencies of equipment.

(3) A complete copy of all complaints investigated by the patrol will be kept on file by the ESR.

NEW SECTION

WAC 204-91A-150 BUSINESS OFFICE AND BUSINESS HOURS. Business hours for purposes of inspection of records, place of business, and towing equipment shall be 8 a.m. to 5 p.m., excluding weekends and holidays.

(1) When an operator is not open for business and does not have personnel present at the place of business, the operator shall post a clearly visible telephone number at the business location for the purpose of advising the public how to make contact for the release of vehicles or personal property.

(2) The operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a thirty-minute period of time.

(3) Personal property (i.e., that property not attached to the vehicle) shall be released without charge between the hours of 8 a.m. to 5 p.m., except on weekends and legal holidays.

(4) Vehicle storage fees shall be based on a daily (24 hour) rate. No storage shall be charged until the vehicle has been stored for six hours. After six hours the operator may charge for each half day (12 hours), or any portion thereof, from the actual time the vehicle arrived at the storage location.

EXAMPLES

Hours stored	Storage fee chargeable
5 hours	none
11 hours	1/2 day
14 hours	1 day
23 hours	1 day
26 hours	1 1/2 days

(5) All billing invoices that are provided to the redeemer of the vehicle shall be consecutively numbered and shall contain the following information:

- (a) Date of service and tow truck operator's name.
- (b) Time of departure from business.
- (c) Time of return to business.
- (d) Starting mileage of tow truck.
- (e) Ending mileage of tow truck.
- (f) Class of tow truck.
- (g) If towing call is for a Washington state patrol request, another police agency, a private impound, or the result of a private citizen request.
- (h) All fees for service shall be itemized.
- (i) The date and time the vehicle was released.

A copy of the invoice shall be filed by invoice number at the business location and a copy of any voided invoice shall be retained in this same file. The invoice number or numbers shall be included with the transaction file items identified in RCW 46.55.150.

NEW SECTION

WAC 204-91A-160 TOWING PROCEDURE. Officers of the patrol shall obtain towing services to remove damaged or disabled vehicles from the highway or to remove vehicles from the highway with the following limitations:

(1) If the vehicle does not constitute an obstruction to traffic and the owner/operator of the vehicle is present at the scene and appears competent to determine disposition of the vehicle, the owner/operator may, upon request, make his own arrangements for removal. This does not affect rotational positions.

(2) If the vehicle is to be removed from the scene, the owner/operator of the vehicle may make a specific request for a particular tow operator. The request will be honored by the officer of the patrol if the requested tow operator is reasonably available and the request is otherwise reasonable in view of the circumstances at the scene. This does not affect rotational positions.

(3) When the owner/operator of the vehicle makes no specific request, or when the owner/operator is incapacitated or is unavailable, the officer of the patrol shall, when practicable, obtain towing services by notifying the radio communications center and requesting tow service at that location.

(4) The chief shall specify that tow services obtained by the patrol will be on a contractual, rotational, or other basis in specific geographical areas in the state.

(5) For the purposes of rotational tow requests, an approved tow truck shall be used only in the tow zone designated by the district commander. The patrol may, when tow service is not reasonably available within a given zone, obtain service from an adjacent zone.

(6) The patrol may adopt rules that will allow approved towing firms to establish their own central dispatch centers to dispatch tow trucks at the request of the patrol in selected geographical areas of the state.

(a) These dispatch centers will be the responsibility of those member towing firms that utilize this type of service.

(b) The patrol communications center will advise the towing dispatch center of the location, zone number, class of tow truck(s), and number of tow trucks needed at the location. The towing dispatch center will be responsible for dispatching the participating firm's tow trucks.

(c) Permanent records of all tow trucks dispatched at the request of the patrol will be maintained by the towing dispatch center for a period of three years.

NEW SECTION

WAC 204-91A-170 TOW ZONES. Each district commander shall outline geographical areas within his district to be designated as tow zones. The geographical tow zones for each patrol district shall be filed with the ESR. The boundaries established pursuant to this action may be modified as circumstances warrant. Considerations may include, but are not limited to, such factors as the frequency and severity of accidents and the frequency of DWI arrests in various areas throughout the district, the volume and pattern of traffic, the availability of tow services, and the accessibility of tow services to the areas of need within each district. Nothing herein shall prevent the patrol from amending tow zones from time to time as required by changing traffic and accident patterns and other such factors affecting the adequacy of towing service available to the patrol.

NEW SECTION

WAC 204-91A-180 MINIMUM EQUIPMENT STANDARDS FOR TOW TRUCKS BY CLASSIFICATION. All tow/recovery trucks used by a registered tow operator for public or private impounds or in response to patrol requests shall meet the minimum standards as listed in this section. All equipment used in conjunction with each truck shall be commensurate with the basic boom rating or, if the truck is not equipped with booms, the manufacturer's gross vehicle weight rating. A waiver for one or more requirements may be granted as outlined in WAC 204-91A-100(4).

(1) CLASS "A" TOW TRUCKS: Trucks that are capable of towing and recovery of passenger cars, pickup trucks, small trailers, or equivalent vehicles. Class "A" trucks shall:

(a) Comply with legal lighting, equipment, and license requirements.

(b) Have department of licensing registration and truck numbers painted on both sides of truck.

(c) Have a revolving/intermittent red light with three hundred sixty degree visibility. May also be equipped with flashing amber and/or white lights which may be used in conjunction with the red lamp(s).

(d) Have a broom, minimum twelve inches wide, handle four feet long.

(e) Have a scoop type shovel, minimum seven inches wide, overall length minimum three feet long.

- (f) Be maintained in a reasonably clean condition.
 - (g) Have all equipment commensurate with total ton rating of booms.
 - (h) Have firm name, city of address, and phone number permanently affixed to both sides of the vehicle.
 - (i) Have two pinch bars or equivalent devices; one tapered, one flattened; one three feet and one four feet, with a minimum diameter of three-quarters of an inch.
 - (j) Have a two-way radio or mobile telephone system capable of communicating with a working base station. A citizen band radio does not suffice. A mobile telephone system is acceptable if:
 - (i) The equipment is of a recognized and established manufacture and is properly installed.
 - (ii) The equipment is in proper working order and functions correctly throughout the assigned tow areas.
 - (iii) The equipment does not utilize the truck horn or a siren or other sound device to signal incoming calls.
 - (iv) The equipment is used in a correct and lawful manner.
 - (k) Have a twenty BC-rated fire extinguisher or equivalent.
 - (l) Have portable tail, stop, and turn signal lights for vehicle being towed.
 - (m) Have a minimum of two snatch blocks.
 - (n) Have a portable dolly or its equivalent for hauling vehicles that are not otherwise towed.
 - (o) Have a tow sling or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.
 - (p) Have ten thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent.
 - (q) Have dual tires on the rear axle or duplex type tires, referred to as "super single" with load rating that is comparable to dual tire rating.
 - (r) Have a minimum of one hundred feet of three-eighths inch continuous length cable or its equivalent, measured from the point of attachment to drum and hook, in safe working condition on each drum.
 - (i) Each cable shall be capable of being fully extended from and fully wound onto its drum.
 - (ii) All cables and/or wire ropes shall be in good working order and shall have:
 - (A) No more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay.
 - (B) No evidence of heat damage from any cause.
 - (C) End attachments that are not cracked, deformed, worn, or loosened.
 - (iii) Cable end connections shall be swaged or, if clamped, shall have a minimum of three clamps spaced a minimum of six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the cable. The "U" bolt will be placed over the short or "dead" end of the rope and will be of the proper size for the cable being clamped.
 - (s) Have a minimum six ton boom rating with single or dual booms. Dual winches to control a minimum of two service drums.
- (2) CLASS "B" TOW TRUCKS: Trucks that are capable of towing and/or recovery of medium size trucks, trailers, motor homes, or equivalent vehicles. Class "B" tow trucks shall meet the requirements of subsection (1)(a) through (o) of this section, and in addition, shall have:
- (a) Seventeen thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent.
 - (b) Minimum ten ton boom rating, single or dual booms, with two independent winches and drums.
 - (c) A minimum of one hundred fifty feet of seven-sixteenths inch cable on each drum, measured from points of attachment. All cable shall be in safe operating condition as described for class "A" trucks.
 - (d) Minimum of four standard release tools (caging stud assemblies).
- (3) CLASS "C" TOW TRUCKS: Trucks that are capable of towing and/or recovery of large trucks, trailers, buses, motor homes, or similar vehicles. Class "C" tow trucks shall meet the requirements of subsection (1)(a) through (o) of this section, and in addition, shall have:
- (a) Tandem rear axle truck chassis (both drive axles).
 - (b) Twenty-five ton minimum single or dual boom and winch rating.
 - (c) One hundred fifty feet of minimum nine-sixteenths inch cable on each drum measured from points of attachment. All cable shall be in safe operating condition as described in class "A."
 - (d) Air brakes and system capable of supplying air to towed vehicle.

- (e) Minimum of four standard release tools (caging stud assemblies).
 - (f) Forty thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent.
- (4) CLASS "D" TOW TRUCKS: Trucks that are equipped for and primarily used as "wheel lift" trucks. Class "D" must meet the requirement of subsection (1)(a) through (r) of this section, and in addition, shall have:
- (a) A minimum three thousand pound manufacturer's lift rated and minimum seven thousand pound rated wheel lift assembly.
 - (b) One winch and drum with one hundred feet of three-eighths inch cable meeting class "A" requirements.

Note: One snatch block is sufficient.

(5) CLASS "E" TOW TRUCKS: Trucks that are primarily designed and intended to transport other vehicles by loading the vehicle entirely onto the truck. These trucks may be of a flatbed, "slide back" or "tilt bed," design or may be a "rail" type truck. Class "E" trucks must meet the requirements of subsection (1)(a) through (l) of this section, and in addition, shall have:

- (a) Two securing devices with a minimum breaking strength of fifteen thousand pounds. The devices may be chain, cable, nylon strap, or steel strap. The tie downs shall be passed over the axle or frame member (one in front and one in rear) of the transported vehicle. Both ends shall be attached to the truck bed or rail in a manner that will prevent movement of the transported vehicle. Factory style "T" hook tie-downs may also be used (front and rear).
- (b) One snatch block.
- (c) Dual tires on rear axles.

Note: All tires must be of sufficient size to meet the requirements of RCW 46-.44.042 under all loading conditions.

(d) If used in a towing mode (as opposed to carrying), a sling, tow bar, and/or wheel lift assembly as appropriate for gross vehicle weight rating.

Additionally, two categories of class "E" trucks, based on gross vehicle weight rating, are established with the requirements listed:

	CATEGORY I	CATEGORY II
Purchased tonnage and gross vehicle weight rating minimum	10,000 lbs.	20,000 lbs.
Winch	4 ton	10 ton
50 ft. cable	3/8 inch	7/16 inch
Cable hook connections rated	3 ton	5 ton

Note: After January 1, 1993, only trucks with a minimum gross vehicle weight rating of twenty thousand pounds will be approved for class "E" designation.

(6) CLASS "S" TOW/RECOVERY TRUCKS: Tow/recovery trucks that cannot meet the requirements of class "A," "B," "C," "D," or "E" and are not eligible for appropriate waiver as outlined in WAC 204-91A-100(4), may be approved as class "S" (special).

To have a truck designated as class "S" the tow operator must submit a request for approval through the district commander to the ESR. The written request shall indicate why the truck is needed, what it will be used for, its size, purchased tonnage (if appropriate), capability, and the equipment carried or used with the truck.

If the district commander approves the request, he/she will forward the approved written request with recommendations for equipment and/or operation instructions or limitations to the ESR for review and final approval. If approval is granted, the equipment shall be inspected as outlined in WAC 204-91A-041 with reports forwarded in the normal manner.

Note: If the provisions of this section require a change in classification for a previously approved tow truck, such change may be made upon the next annual reinspection. In any case, all tow trucks shall be correctly classified by July 1, 1989.

NEW SECTION

WAC 204-91A-190 VEHICLE TOWING/OPERATOR QUALIFICATIONS, RESTRICTIONS, AND REQUIREMENTS. In addition to the requirements contained in WAC 204-91A-180, tow truck operators appointed pursuant to this chapter shall conform to all laws and administrative rules pertaining to the tow industry and shall observe the following practices and procedures:

(1) When called by the patrol, the tow truck operator will dispatch a tow truck, from within the assigned zone, within five minutes during normal business hours.

(2) Tow trucks dispatched at the request of the patrol after normal business hours will be on the move within the assigned zone within fifteen minutes after receiving the call.

(3) The tow truck that is dispatched will arrive at the stated location within a reasonable time considering distance, traffic, and weather conditions.

(4) If for any reason a tow operator is unable to dispatch a tow truck within the stated time or if the dispatched truck will be delayed for any reason, the operator shall so advise the patrol stating the reason and estimated time of arrival. In the event the tow truck fails to arrive at the scene within a reasonable time, the patrol will contact another tow operator to respond to the scene and will cancel the original tow.

(5) A tow operator on rotation who is unable to dispatch or arrive within the times stated in subsections (1), (2), (3), and (4) of this section will forfeit his turn and be placed at the bottom of the rotation list as if he had responded.

(6) Consistent refusal or failure of the appointee to respond to calls from the patrol for towing services may result in the suspension or revocation of the tow operator's letter of appointment.

(7) The tow operator shall advise the appropriate patrol office when the tow company is temporarily unavailable to respond to rotational calls with a class "A," "B," or "C" tow truck. Unavailability may occur due to conditions such as, but not limited to, other tow truck commitments, tow truck disabled and/or under repair, unforeseen driver shortage due to illness, etc. The period of unavailability may last less than an hour or much longer. The tow operator will give the reason for unavailability and approximately when the company will be available to respond to calls.

The tow company will be removed from the rotational list and will not be called until the operator advises the patrol that the company is once again able to respond to calls with an "A," "B," or "C" class truck. In all such cases, the tow company will resume its normal position on the rotational list without regard to any missed calls or its position prior to being unavailable.

(8) The tow operator will advise the patrol whenever a private call is received for a tow with circumstances that indicate that the tow is for a vehicle which has been involved in an accident, incident, or equipment breakdown on the public roadway. The tow operator also will advise the patrol of all private calls to motor vehicle accidents on private property resulting in bodily injury or death.

(9) The tow operator will notify the patrol before moving any vehicle involved in an accident on a public highway under the jurisdiction of the patrol as defined in the motor vehicle code, Title 46 RCW, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs, or is otherwise incapacitated.

(10) When the patrol is in charge of an accident scene or other such incident, a tow operator shall not respond to such scene unless his services have been specifically requested by the patrol, the driver/owner, or his agent.

(11) The tow operator shall be available twenty-four hours a day for the purpose of receiving calls or arranging for the release of vehicles. Business hours will be posted conspicuously at the operator's place of business so they can be seen during business hours and nonbusiness hours. A copy will also be sent to the ESR and patrol district commander of the district in which the tow operator does business. Changes of business hours will be sent to the department, the ESR, and the patrol district commander ten days before their effective date.

(12) The tow operator will notify the appropriate patrol office of the release of stored vehicles within five working days after the release of such vehicle. Notification to the patrol will be made in such a manner as prescribed by the ESR commander.

(13) The tow operator will post current towing service rates in a conspicuous place at the company's place of business and shall list such rates on a form approved by the department/ESR. A copy of the current rates will be sent to the department, the ESR, and the patrol district commander of the district in which the tow operator has applied for a letter of appointment. Notice of any change(s) in service rates will be forwarded to the department, the ESR, and the district commander of the area ten days before the effective date of the changes. Charges made for towing services arising from calls initiated by the patrol shall be consistent with current posted towing rates and shall be based only upon services listed on the prescribed form.

(14) Charges made for towing services arising from calls initiated by the patrol shall be consistent with charges made for similar services performed at the request of the general public.

(15) Unless other arrangements are made with commissioned patrol personnel at the scene, all impounded vehicles shall be taken to the tow operators nearest approved storage location.

(16) The tow operator will maintain, for three years, records on towed and released vehicles which were towed at the request of the patrol. This record will include, but not be limited to:

(a) An itemized receipt of all charges for the services provided.

(b) An inventory sheet or copy thereof made out by the trooper at the scene of the tow and signed by the operator.

(c) All other records required by the department.

Such records will be available for inspection by the patrol during normal business hours at the appointee's place of business.

(17) The tow operator will sign an inventory sheet made out by the patrol officer at the scene.

(18) Tow operators will obtain and maintain current registration as a licensed tow truck operator pursuant to RCW 46.55.020.

(19) Tow operators shall perform towing tasks competently. The standard of competence shall be that quality of work which is accepted as efficient and effective within the towing industry.

(20) No tow operator, employee, or agent shall misappropriate, wrongfully convert to his/her own use, or abuse property belonging to another and entrusted to his/her care or storage.

(21) Tow truck operators will use emergency lights to warn other motorists only when at the scene of accidents, disabled vehicles, and/or recoveries. Such lighting shall not be used when traveling to or from the scene.

(22) Tow truck operators shall be responsible for cleaning accident/incident scenes of all vehicle glass and debris.

(23) Specific operating restrictions and/or requirements, by truck class, are as follows:

(a) The standard air brake release tools (caging stud assemblies) required to be carried in the class "B" and "C" trucks shall be used, whenever necessary, to preserve potential evidence involving brake equipment or adjustment settings. When an operator is attempting to move a vehicle equipped with locked spring parking brakes that cannot be released by external air supply, the caging assemblies shall be used to release the brake tension. Under no circumstances shall the towed vehicle's brake assemblies or adjustments be moved or disturbed in any way that will prevent later determination of the preaccident or incident settings.

(b) Class "B" trucks in excess of twenty-three thousand pounds gross vehicle weight rating need not carry dollies when towing or recovering heavy vehicles.

(c) Class "D," "E," and "S" trucks shall not be used to respond to initial calls unless specifically authorized by patrol personnel at the scene or by local written policy approved by the district commander.

(d) Class "E" trucks shall:

(i) Not be used for multiple vehicle towing/recovery;

(ii) Not be operated in excess of either gross vehicle weight rating or purchased tonnage weight limits;

(iii) Be required to carry its portable lights only when used in a towing mode.

WSR 88-13-059
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2633—Filed June 14, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to time limits, write-offs and compromises, WAC 388-44-330.

This action is taken pursuant to Notice No. WSR 88-10-004 filed with the code reviser on April 12 [21], 1988. 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 43.20B-.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 June 13, 1988.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-44-330 TIME LIMITS, WRITE-OFFS, AND COMPROMISES. (1) The department shall not collect an overpayment due the state after the expiration of six years from the date of notice unless:

(a) The department has commenced recovery action in a court of law; or

(b) An administrative remedy authorized by statute is in place.

(2) The department shall cease collection on a case, extended as a result of subsection (1)(a) and (b) of this section, at the end of ten years unless a court order is in effect for a longer period.

(3) The department may accept an offer of compromise from the debtor after collection efforts have begun when the debtor offers an amount:

(a) Equal to or exceeding the amount expected to be collected within the statute of limitations; or

(b) From nonattachable income or resources and it is unlikely the debtor shall return to public assistance or be gainfully employed before the expiration of the statute of limitations; or

(c) Exceeding the projected cost of collection enforcement efforts.

(4) To achieve a compromise offer, the department may accept a lump sum payment or an extended repayment agreement from the debtor. The department may decide to make the extended repayment agreement subject to accelerated payment if the debtor's financial condition significantly changes. Prior to the expiration of the collection period allowed by statute, the department may write off from the account receivable records the amount of the original balance that remains uncollected after the debtor pays the compromise amount.

(5) The department may clear an amount from its account receivable records prior to the expiration of the statutory collection period when there is no further possibility of collection.

WSR 88-13-060

ADOPTED RULES

GAMBLING COMMISSION

[Order 179—Filed June 14, 1988]

Be it resolved by the Washington State Gambling Commission, acting at Wenatchee, Washington, that it

does adopt the annexed rules relating to new sections WAC 230-02-280, 230-02-290, 230-08-017 and 230-30-072; and amendatory sections WAC 230-04-065, 230-04-190, 230-04-201, 230-08-010, 230-08-025, 230-08-130, 230-30-015 and 230-30-018.

This action is taken pursuant to Notice No. WSR 88-09-020 filed with the code reviser on April 13, 1988. 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 9.46.070 (8), (11) and (14) 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 June 10, 1988.

By Frank L. Miller
Deputy Director

NEW SECTION

WAC 230-02-280 IDENTIFICATION AND INSPECTION SERVICES STAMPS. Identification and inspection services stamps are printed under the control of the commission for purposes of identifying and controlling gambling devices within the state of Washington. Each stamp is pre-glued and imprinted with the seal of the commission and a unique number or combination of alpha characters and numbers.

NEW SECTION

WAC 230-02-290 RECORDS ENTRY LABELS. Record entry labels are a set of removable, pre-glued labels, attached to identification and inspection services stamps and imprinted with the same unique number or combination of alpha characters and numbers as the stamp, plus an electronically identifiable bar code equivalent of the identification number. These labels are attached to a punchboard or pull tab series flare by the manufacturer of the punchboard or pull tab at the same time the identification and inspection services stamp is attached. These labels may only be removed and used as record entries as prescribed by other rules of this section.

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-04-065 (~~LESSER REQUIREMENTS FOR APPLICANTS FOR CERTAIN CLASSES OF LICENSES TO OPERATE BINGO, RAFFLES, AMUSEMENT GAMES AND FUND RAISING EVENTS~~) SIMPLIFIED APPLICATION FORM AUTHORIZED FOR LOWER VOLUME GAMBLING ACTIVITIES. (~~Notwithstanding the provisions of WAC 230-04-060, the following provisions shall apply to:~~) (1) The director may prepare a simplified license application form for bona fide charitable and non-profit organizations conducting the following activities:

(~~(+)~~) (a) Fund raising events(-:) (All classes);

~~((2))~~ (b) Bingo(-) (Classes A and B);
~~((3))~~ (c) Raffles(-) (Classes ~~((C and D))~~ A, B,
 and C); and

~~((4))~~ (d) Amusement games(~~Those amusement games which are conducted under a Class A, B, or C license on the premises of property owned by a corporation sole or by a public school (kindergarten through grade 12), college, or university where the annual net receipts of the licensee from the licensed activity do not exceed \$5000 and where the licensed activity is conducted by a bona fide charitable or nonprofit organization.~~

~~(5) For the above categories only, the director may prepare a simplified form which all applicants shall submit to the office of the commission in Olympia. The information requested on the simplified application form shall be submitted to the commission by the applicant's highest ranking executive officer. At the minimum, each applicant shall provide the following information on or attached to the application:)~~ (Classes A, B, and C).

(2) The simplified application form shall follow the same procedure as required by WAC 230-04-020.

(3) At the minimum, the following information and documents shall be submitted with the application:

(a) Copy of a corporate applicant's articles of incorporation and bylaws(~~a partnership applicant's articles and partnership agreement; copies~~) or, if not incorporated, a copy of any bylaws and other documents which set out the organizational structure and purposes for which a noncorporate organization applicant was formed and operates(~~or, i~~). If the above documents are not available, an affidavit of the chief officer or responsible person with the organization setting out the purpose for which the organization exists and operates;

(b) ((Information as to whether or not a) A copy of the tax exemption letter from the United States Internal Revenue Service ((has been obtained or) or information as to whether such exemption has been applied for and denied;

(c) The name, address and date of birth of each employee who will participate in the operation of, and of each person who will participate in the management of, the activity for which the license is sought;

(d) The name, address and date of birth of each person who has any interest in the gambling activity for which the license is sought, the building within or premises upon which the activity will occur or the equipment to be used for such gambling activity;

~~(e) When information filed with the commission becomes inaccurate in any way, the applicant or licensee shall submit full details of any such change and correct any inaccuracy, together with copies of any new required documents with the commission within 30 days following the change.~~

~~((6))~~ (4) Refer to WAC 230-20-400 for certain other exemptions subsequent to issuance of license(s). These exemptions and those referred to in WAC 230-08-015, do not apply to fund raising events.

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.

AMENDATORY SECTION (Amending Order 172, filed 10/9/87)

WAC 230-04-190 ISSUANCE OF LICENSE. (1) Charitable and nonprofit organizations and agricultural fairs. The commission may issue a license to qualified bona fide charitable or ~~((to qualified bona fide))~~ nonprofit organizations or to qualified agricultural fairs to operate each of the following activities upon a specified location:

- (a) Bingo;
- (b) Raffles;
- (c) Amusement games;
- (d) Punchboards and pull tabs;

~~(e) ((To allow its premises to be used only by bona fide members and guests to play authorized card games. The operation of each of these activities shall require a separate license from the commission.))~~ Social Cards; and

(2) Fund raising event as defined in RCW 9.46.02~~((0))~~³³. The commission may issue a license to a bona fide charitable or bona fide nonprofit organization defined in RCW 9.46.020~~9~~, other than any agricultural fair defined therein, to conduct fund raising events.

(3) Special amusement game license. The commission may issue a license to any person, association or organization other than a bona fide charitable or bona fide nonprofit organization to conduct amusement games only at one or more of the locations set out by the commission in WAC 230-20-380.

(4) Commercial stimulant card games. The commission may issue a license to persons operating a business primarily engaged in the selling of items of food or drink for consumption on the premises operating under the authority of a license or permit for the business issued by the state, district or local health officer, and/or a license issued by the Washington state liquor control board, to allow a specified portion of a specified premises to be used by persons to play authorized card games.

(5) Public card room employee. The commission may issue a license to a person to perform duties in a public card room.

(6) Commercial stimulant punchboards and pull tabs. The commission may issue a license to a person operating a business primarily engaged in the selling of items of food or drink for consumption on the premises operating under the authority of a license or permit for the business issued by the state, district or local health officer, and/or a license issued by the Washington state liquor control board, to operate punchboards and pull tabs upon specified premises.

(7) Punchboard and pull tab manufacturer and distributor. The commission may issue a separate license to:

- (a) Punchboard and pull tab manufacturers,
- (b) Distributors to sell and distribute punchboards and pull tabs and related equipment within the state of Washington,

(c) Manufacturer's representatives to sell and distribute punchboards and pull tabs and related equipment on behalf of the manufacturer in the state of Washington, and

(d) Distributor's representatives to sell and distribute punchboards and pull tabs and related equipment on behalf of the distributor in the state of Washington.

(8) License expiration. Each such license shall be valid for one year from the date that it is issued: Provided, That

(a) All annual licenses for punchboard and pull tab and class c and above bingo shall be issued with an expiration date adjusted to expire on March 31, June 30, September 30, or December 31, whichever date is closest to the license issuance date and does not exceed one year. All other applicants or licensees may request specific license expiration dates to correspond with the above dates. Whenever license expiration dates are adjusted under this provision, the required fee shall be prorated by the Commission. This prorating of fees shall be computed on a monthly basis (i.e., one-twelfth of the annual payment per month) and subtracted from the regular annual fee. Prorating shall be based on the number of whole months remaining upon approval of a license. For the purposes of this proration, any part of a month in which the activity is licensed shall be deemed to be a whole month when computing an annual fee. Any difference between the required fee which exceeds twenty dollars, shall be refunded to the applicant.

(b) Licenses issued to conduct any authorized activity in connection with and upon the site of a qualified agricultural fair, qualified community-wide civic festival, qualified world's fair, or qualified civic center shall be valid only for the duration of the fair or festival, or, in the case of an activity at a civic center, for the seasons during which the civic center is operating and open to the public. In no event shall such license exceed one calendar year.

((b)) (c) Notwithstanding the provisions of subsection (a), a license issued for the conduct of a raffle in connection with a qualified agricultural fair, qualified community-wide civic festival or qualified world's fair shall authorize the licensee to sell tickets for said raffle at any time during the period from the issuance of the license through the conclusion of the fair or festival.

((c)) (d) Licenses issued for card tournaments shall be valid only for the duration of the tournament, but in no event shall exceed ten consecutive days.

((d)) (e) Licenses issued for fund raising events shall be valid for one year from the date issued but the event (or events) permitted under the license shall be held only at the place and time set forth in the application or otherwise approved by the commission. The number of events permitted under the license in any calendar year is subject to the limitations set out in RCW 9.46.020((23)) 33 defining fund raising events.

(f) Licenses issued to individuals shall be valid for a period of one year from the date of employment or issuance, whichever occurs first: Provided that; licenses issued to bingo game managers shall expire as set out in WAC 230-04-145.

((e)) (g) If the licensee fails to renew the license prior to the expiration date, the license shall expire. The licensee must reapply for licensure according to the statutory and regulatory conditions then in force as would any other person.

((f)) (h) Licenses approved under the six month payment plan shall be issued with an expiration date of six months from the license approval date or the original license expiration date, whichever is applicable. Upon receipt and validation of the second half payment, a licensee may be granted a second license for an additional six month period. Second half payments must be received by the commission on or before the due date. If the licensee fails to submit the second half of the fee payment(s) as established by WAC 230-04-201 prior to the expiration date, the license shall expire.

(9) Conditions of license issuance. All activities so licensed are licensed subject to compliance with all of the applicable provisions of chapter 9.46 RCW, including any amendments thereto, all applicable rules and regulations passed by the commission, all other applicable laws of the United States, the state of Washington and all political subdivisions of the state of Washington.

AMENDATORY SECTION (Amending Order 177, filed 5/17/88 [5/18/88])

WAC 230-04-201 FEES. Tables 1 and 2 contain the fees that shall be paid to the commission for gambling licenses, permits, miscellaneous changes, and special investigative and inspection services.

Table 1. (For bona fide nonprofit/charitable organizations)

LICENSE TYPE		DEFINITION	FEE
1.	AMUSEMENT GAMES	(Fee based on annual net receipts)	
	Class A	\$500 or less	\$ 35
	Class B	\$501 - 1,000	50
	Class C	\$1,001 - 5,000	75
	Class D	\$5,001 - 15,000	250
	Class E	over \$15,000	350

<u>LICENSE TYPE</u>	<u>DEFINITION</u>	<u>FEE</u>
2.	BINGO (Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 50
Class B	\$ 10,001 to 50,000	150
Class C	\$ 50,001 to 100,000	500
Class D	\$ 100,001 to 300,000	800
Class E	\$ 300,001 to 500,000	1,500
Class F	\$ 500,001 to 1,000,000	3,000
Class G	\$1,000,001 to 1,500,000	4,000
Class H	\$1,500,001 to 2,000,000	5,000
Class I	\$2,000,001 to 2,500,000	6,000
Class J	\$2,500,001 to 3,000,000	7,000
Class K	\$3,000,001 to 3,500,000	8,000
3.	BINGO GAME MANAGER	
	Original	\$ 150
	Renewal	75
4.	CARD GAMES	
Class A	General (fee to play charged)	\$ 500
Class B	Limited card games – to hearts, rummy, mah-jongg, pitch, pinochle, coon-can and/or cribbage – (fee to play charged)	150
Class C	Tournament only – no more than ten consec. days per tournament	50
Class D	General (no fee to play charged)	50
Class R	Primarily for recreation (WAC 230-04-199)	25
5.	CHANGES	
NAME	(See WAC 230-04-310)	\$ 25
LOCATION	(See WAC 230-04-320)	25
FRE	(Reno Nite date(s)/time(s)) (See WAC 230-04-325)	25
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE REPLACEMENT	(See WAC 230-04-290)	25
IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
6.	FUND RAISING EVENT	
Class A	One event not more than 24 consec. hrs.	\$ 300
Class B	One event not more than 72 consec. hrs.	500
Class C	Additional participant in joint event (not lead organization)	150
7.	PERMITS	
Class A	Agricultural fair/special property bingo One location and event only (see WAC 230-04-191)	\$ 25
8.	PUNCHBOARDS/ PULL TABS (Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 300
Class B	Up to \$50,000	475
Class C	Up to \$100,000	960
Class D	Up to \$200,000	1,560
Class E	Up to \$300,000	2,360
Class F	Up to \$400,000	3,150
Class G	Up to \$500,000	3,775

LICENSE TYPE	DEFINITION	FEE
Class H	Up to \$600,000	4,350
Class I	Up to \$700,000	4,825
Class J	Up to \$800,000	5,225
Class K	Over \$800,000	5,900
9. RAFFLES	(Fee based on annual gross receipts)	
Class A	Up to \$5,000	\$ 50
Class B	Up to \$10,000	150
Class C	Up to \$25,000	300
Class D	Up to \$50,000	500
Class E	Up to \$75,000	800
Class F	Over \$75,000	1,200
10. SEPARATE PREMISES		
BINGO	Occasion (see WAC 230-04-300)	\$ 25
((RAFFLES	(See WAC 230-04-197)	25))
11. SPECIAL FEES		
INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND		
INSPECTION STAMP	(See WAC 230-30-015 and 230-30-030)	As required
<u>EXCEEDING LICENSE CLASS</u>	<u>(See WAC 230-04-260)</u> <u>In addition to all normal license fees,</u> <u>a licensee may be assessed an exceeding class fee</u> <u>for a present or previous license year, not to exceed</u> <u>50% of the difference between the present class fee</u> <u>and the new license class or \$1,000, whichever is less.</u>	<u>As required</u>
12. SIX-MONTH PAYMENT PLAN	((The Commission may allow an applicant to pay their fee in two payments during their annual renewal or submission of an additional or reinstatement application under 90 days.	\$ 25
	<p><u>FEE PROCEDURE</u> <u>Administrative processing fee, plus</u> <u>first half of annual license fee at</u> <u>time of application/renewal. Second</u> <u>half of annual license fee will be</u> <u>collected prior to the expiration</u> <u>date of first six-month license.</u> <u>Pertains only to annual licenses</u> <u>\$800 and above.)) <u>The Commission may allow an</u></u> <u>applicant renewing an annual license or an</u> <u>applicant applying for an additional license</u> <u>with a fee of \$800 or above, to pay a license fee</u> <u>in two payments.</u></p> <p><u>SIX-MONTH PAYMENT PLAN PROCEDURE:</u> <u>The administrative processing fee, plus the first half</u> <u>of the annual license fee must be submitted at the time</u> <u>of application/renewal. The second half payment must</u> <u>be submitted and received in the Commission's Olympia</u> <u>headquarters office, prior to the expiration date of</u> <u>the first six-month period: Provided, That participants</u> <u>electing the six-month payment plan will be limited to</u> <u>50% of the authorized class limitation for annual</u></p>	

<u>LICENSE TYPE</u>	<u>DEFINITION</u>	<u>FEE</u>
	<u>gross receipts during the first six month period.</u> <u>Licensees exceeding 50% of the authorized level shall</u> <u>be required to upgrade to the appropriate license class</u> <u>as required by WAC 230-04-260 and pay the full upgrade</u> <u>fee, plus \$25.00.</u>	

Table 2. (For commercial stimulant/profit seeking organizations)

<u>LICENSE TYPE</u>	<u>DEFINITION</u>	<u>FEE</u>
1. CARD GAMES		
Class B	(Fee to play charged) limited card games – to hearts, rummy, pitch, pinochle, mah-jongg, coon-can and/or cribbage	\$ 150
Class C	Tournament only, no more than ten consec. days per tournament	150
Class D	General (no fee to play charged)	50
Class E	General (fee to play charged)	
E-1	One table only	350
E-2	Up to two tables	600
E-3	Up to three tables	1,000
E-4	Up to four tables	2,000
E-5	Up to five tables	3,000
2. CHANGES		
NAME	(See WAC 230-04-310)	\$ 25
LOCATION	(See WAC 230-04-320)	25
BUSINESS CLASSIFICATION	(Same owners – see WAC 230-04-340(3))	50
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE	(See WAC 230-04-290)	25
OWNERSHIP OF STOCK REPLACEMENT	(See WAC 230-04-340(1))	50
IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340 and 230-04-350)	50
3. DISTRIBUTOR	(Fee based on annual gross receipts ((for sale of punchboards, pull tabs, pull tab dispensing devices and sale/lease of fund-raising event equipment:)))	Original Renewal
Class A	up to \$600,000	\$2,750 \$1,250
Class B	over \$600,000	\$2,750 \$1,700
4. DISTRIBUTOR'S REPRESENTATIVE	Original Renewal	\$ 220 110
5. MANUFACTURER	Original Renewal	\$3,300 1,650
6. MANUFACTURER'S REPRESENTATIVE	Original Renewal	\$ 220 110

LICENSE TYPE	DEFINITION	FEE
7. PERMITS Class A Class B	Agricultural fair/special property bingo One location and event only (see WAC 230-04-191) Annual permit for specified different events and locations (see WAC 230-04-193)	\$ 25 150
8. PUBLIC CARD ROOM EMPLOYEE	Original Renewal	\$ 150 75
9. PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 300
Class B	Up to \$50,000	475
Class C	Up to \$100,000	960
Class D	Up to \$200,000	1,560
Class E	Up to \$300,000	2,360
Class F	Up to \$400,000	3,150
Class G	Up to \$500,000	3,775
Class H	Up to \$600,000	4,350
Class I	Up to \$700,000	4,825
Class J	Up to \$800,000	5,225
Class K	Over \$800,000	5,900
10. SPECIAL FEES INVESTIGATION IDENTIFICATION AND INSPECTION STAMP <u>EXCEEDING LICENSE CLASS</u>	(See WAC 230-04-240) (See WAC 230-30-015 and 230-30-030) (See WAC 230-04-260) <u>In addition to all normal license fees,</u> <u>a licensee may be assessed an exceeding class fee</u> <u>for a present or previous license year, not to exceed</u> <u>50% of the difference between the present class fee</u> <u>and the new license class or \$1,000, whichever is less.</u>	As Required As Required <u>As Required</u>
11. SPECIAL LOCATION AMUSEMENT GAMES Class A	(Fee based on annual net receipts) One event per year lasting no longer than 12 consecutive days	\$ 500
Class B	\$25,000 or less	500
Class C	\$25,001 - 100,000	1,500
Class D	\$100,001 - 500,000	3,000
Class E	Over \$500,000	5,000
12. SIX-MONTH PAYMENT PLAN	((The Commission may allow an applicant to pay their fee in two payments during their annual renewal or submission of an additional or reinstatement application under 90 days. FEE PROCEDURE Administrative processing fee, plus first half of annual license fee at time of application/renewal. Second half of annual license fee will be collected prior to the expiration	\$ 25

LICENSE TYPEDEFINITIONFEE

~~date of first six-month license.~~

~~Pertains only to annual licenses~~

~~\$800 and above:)) The Commission may allow an applicant renewing an annual license or an applicant applying for an additional license with a fee of \$800 or above, to pay a license fee in two payments.~~

SIX-MONTH PAYMENT PLAN PROCEDURE:

The administrative processing fee, plus the first half of the annual license fee must be submitted at the time of application/renewal. The second half payment must be submitted and received in the Commission's Olympia headquarters office, prior to the expiration date of the first six-month period: Provided, That participants electing the six-month payment plan will be limited to 50% of the authorized class limitation for annual gross receipts during the first six month period. Licensees exceeding 50% of the authorized level shall be required to upgrade to the appropriate license class as required by WAC 230-04-260 and pay the full upgrade fee, plus \$25.00.

AMENDATORY SECTION (Amending Order 171, filed 8/18/87)

WAC 230-08-010 MONTHLY RECORDS. Every person or organization licensed to operate any authorized gambling activity shall keep and maintain permanent monthly records of all of the activities of the licensee related to each licensed activity. Each of these records shall be maintained by the licensee for a period of not less than three years from the end of the fiscal year for which the record is kept unless the licensee is released by the commission from this requirement as to any particular record or records. These records must include all financial transactions and contain enough detail to determine compliance with the requirements of WAC 230-04-050 and 230-04-080. The record for each licensed activity shall be a separate unit, covering all transactions occurring during a calendar month. These records shall be complete in every detail and available for audit or inspection by agents of the commission or other law enforcement personnel no later than thirty days following the end of each month. Each record shall include, but not necessarily be limited to, all details of the following:

- (1) The gross gambling receipts from the conduct of each of the activities licensed.
- (2) Full details on all expenses related to each of the activities licensed.
- (3) The total cost of all prizes paid out for each of the activities licensed.
- (4) With respect to those organizations licensed as qualified bona fide charitable or bona fide nonprofit organizations, except agricultural fairs, records shall clearly show in detail how those proceeds from each licensed activity obtained by the licensee were used or disbursed by that licensee.

(5) With respect to commercial stimulant licensees, records shall include at least the following details:

- (a) Gross sales of food and drink for consumption on their licensed premises;
- (b) Gross sales of food and drink for consumption off the licensed premises; and
- (c) Gross sales from all other business activities occurring on the licensed premises.
- (6) In addition to any other requirement set forth in these rules, licensees for the operation of punchboards and pull tabs shall be required to prepare a detailed monthly record for punchboards and pull tab series removed from play during that month. This detailed monthly record shall be recorded in a standard format prescribed by the commission and shall disclose for each set at minimum the following information:
 - (a) The name of the punchboard or pull tab series;
 - (b) The Washington state identification and inspection services stamp number issued by the commission and placed thereon((:)); Provided, that after December 31, 1988, when records entry labels are attached to the punchboard or pull tab series flare, a label shall be attached to the record in lieu of a written entry;
 - (c) ~~((The series number of each pull tab series or punchboard;~~
 - (d) ~~The date placed out for play;~~
 - (e)) The date removed from play;
 - ((ff)) (d) The total number of tabs in each pull tab series or the total number of punches in each punchboard;
 - ((g)) (e) The number of pull tabs or punches remaining after removal from play;
 - ((h)) (f) The number of pull tabs or punches played from the pull tab series or punchboard;

~~((f))~~ (g) The cost to the players to purchase one pull tab or one punch;

~~((j))~~ (h) The gross gambling receipts as defined in WAC 230-02-110;

~~((k))~~ (i) The total prizes paid, including both cash and merchandise (calculated by the cost to the licensee) prizes;

~~((h))~~ (j) The net gambling receipts (gross gambling receipts less total prizes paid);

~~((m))~~ (k) The cash over or short determined by (1) subtracting actual cash from net gambling receipts for punchboards and pull tabs which pay cash prizes, and (2) subtracting actual cash from gross receipts for punchboards and pull tabs which award merchandise prizes; and

~~((n))~~ (l) The actual cash received from the operation of each pull tab series or punchboard; and,

In the alternative, with written commission approval, licensees operating pull tabs may record ~~((m))~~ (k) and ~~((n))~~ (l) in total on a daily, weekly, or monthly basis.

(7) Copies of all additional financial data which support tax reports to any and all governmental agencies.

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.

NEW SECTION

WAC 230-08-017 CONTROL AND USE OF IDENTIFICATION AND INSPECTION SERVICES STAMPS. No punchboard, series of pull tabs, or device for dispensing pull tabs shall be sold or purchased for use within this state until an identification and inspection services stamp obtained from the commission has been permanently and conspicuously affixed thereto. Once attached, such stamp shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

(1) Identification and inspection services stamps shall be sold only to licensed manufacturers. The fee charged for each stamp shall be twenty-five cents. After September 1, 1988, all punchboards and pull tabs series manufactured, if for sale in Washington state must have identification and inspection stamps plus records entry labels attached. Manufacturers who have identification and inspection services stamps on hand after September 1, 1988, which do not have records entry labels attached, will be afforded the opportunity to exchange these stamps, one for one and without cost by submitting them to the commission's Olympia headquarters office prior to October 1, 1988. After October 1, 1988, any stamps returned will be exchanged only after payment of a ten cent service charge, for each stamp as set out in WAC 230-30-018;

(2) Identification stamps shall only be affixed to punchboards, pull tab series flares, and devices for dispensing pull tabs in such a manner as to assure reasonable inspection without obstruction. If punchboards or pull tabs series flares are packaged with protective materials, after stamps are affixed, then the stamps shall be readily visible for inspection without removal of any

portion of the protective packaging: Provided that when more than one device is packed in a shipping carton, this requirement shall not apply if the identification and service stamp numbers of all devices contained in the carton are printed or otherwise noted on the outside of the carton. Stamps and records entry labels shall be affixed only by licensed manufacturers in the following manner:

(a) On the reverse side of all punchboards in an area that will not obstruct removal of punches: Provided, that if sufficient space is not available on the reverse side, the records entry labels may be wrapped around and/or partially attached to the edge of a punchboard in a manner that will not obstruct display of prizes available or other information required by rules of the Commission;

(b) On the face or reverse side of the flare for all pull tab series. If placed on the face, then they must be in an area that will not obstruct prizes available or any other information required by rules of the commission; and

(c) On the outside of the main body of pull tab dispensing devices, in an area that is not normally removed and replaced, and in a manner that will not obstruct the view of the pull tabs available for play. The records entry labels shall not be affixed to dispensing devices and may be discarded.

(3) Identification and inspection services stamps shall not be attached to punchboards, pull tab series flares, or pull tab dispensing devices that do not comply with rules of the commission. Stamps shall not be affixed to any device prior to approval of the device by the commission.

AMENDATORY SECTION (Amending Order 132, filed 4/21/83)

WAC 230-08-025 ACCOUNTING RECORDS TO BE MAINTAINED BY DISTRIBUTORS AND MANUFACTURERS. Every licensed distributor and manufacturer shall keep and maintain a complete set of records which include all details of all activities of the licensee related to the conduct of the licensed activity. These records shall be recorded using the double entry accounting system and maintained in accordance with generally accepted accounting principles. This system shall also be on the same basis as the licensee's federal income tax return (and shall include but not necessarily be limited to the following records by month:). All records shall be maintained for a period of not less than three years following the end of the licensee's fiscal year. These records shall be updated at least once a month and provide a monthly balance for each account. The minimum record system shall include the following:

1((:)) Sales invoices - ((every licensee shall use, for the purpose of recording sales of any and all types of goods and services, a general sales invoice which meets the following criteria and sets out the following information)) every manufacturer and distributor shall record every sale, return, or any other type of transfer of punchboards/pull tabs or pull tab dispensing devices by completing a standard sales invoice or credit memo. These invoices shall set out the following information:

a((:)) ((P)) Each invoice must be prenumbered at the time of purchase. The numbering must be consecutive((ty)), using ((a number)) not less than four

digits((-)): Provided, that manufacturers may use a computer generated numbering system if the same system is used for all sales and specific numbers can not be input by use of a manual override function;

(b((-))) The date of sale. For distributors only((-i)); If the date of delivery is different, then ((also)) the delivery date must also be entered;

(c((-))) The customer's name and an adequate business address;

(d((-))) A full description of each item sold, including ((any state identification stamp number)) the identification and inspection services stamp number for each item. For all sales occurring after December 31, 1988, distributors shall use a standard invoice in a format prescribed and approved by the commission. A separate line shall be used for each stamp number. This invoice shall provide space for the operator to either attach a records entry label or enter the identification and inspection services stamp number and the date the device was placed out for play. These spaces shall be adjacent to the written entry of the I.D. stamp number made by the distributor;

(e((-))) The quantity and sales price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull tabs;

(f((-))) The gross amount of each sale to each customer including all discount terms and the total dollar amount of any discount;

(g((-))) The sales invoice shall be prepared in at least three parts: Provided that after December 31, 1988, all distributor invoices shall have at least four parts; and the invoices shall be distributed and maintained as follows:

((+))i) ((One)) The original shall be issued to the customer((-); Provided that after December 31, 1988, an additional copy of distributor invoices shall be provided to the customer;

((2))ii) One shall be retained in an invoice file by customer name((-); and

((3))iii) One shall be retained in an invoice file by invoice number or in an alternative manner that accounts for each invoice numerically. This provision may be waived if the licensee receives written commission approval.

(h((-))) Credit memos for returned items shall be prepared in the same detail as items (a) through (g) above.

(2((-))) Sales journal – the sales journal shall contain at least, but not be limited to, the following by month:

(a((-))) The date of the sale;

(b((-))) The invoice number of the sale;

(c((-))) The customer name or person remitting a payment;

(d((-))) Sales shall be categorized at least by the following:

((+))i) Punchboards that pay out cash prizes;

((2))ii) Punchboards that pay out merchandise prizes;

((3))iii) Pull tabs that pay out cash prizes;

((4))iv) Pull tabs that pay out merchandise prizes;

((5))v) Pull tab dispensing devices;

((6))vi) Merchandise: Only that which is used as a prize on a punchboard or series of pull tabs.

((7))vii) Other types of sales including but not limited to, equipment leases, equipment sales, and bingo supplies.

(e((-))) Total amount of the invoice;

(3((-))) Cash disbursements book (check register) – this record shall include a recording of all checks issued by the licensee, cash payments made by the licensee, or payments made by any other means. All expenses by the licensee, both gambling and nongambling related, shall be documented by invoices or other appropriate supporting documents. ((and)) Entries to this record shall contain at least, but not limited to, the following information by month:

(a((-))) The date the check was issued or payment made;

(b((-))) The number of the check issued;

(c((-))) The name of the payee; and

(d((-))) ((Expenses)) Each disbursement shall be categorized by type of expense.

((All expenses by the licensee, both respecting its expenditures relating to gambling and nongambling activities, shall be documented by invoices or other appropriate supporting documents.))

(4((-))) Cash receipts – all cash receipts shall be recorded in an original book of entry whether it be a sales journal, a check register, or a separate cash receipts journal, and at a minimum shall include a recording of not only cash sales, but also cash received from all sources, and shall contain at least, but not limited to, the following by month:

(a((-))) The date the payment was received;

(b((-))) The name of the person remitting the payment;

(c((-))) The amount of payment received;

(5((-))) General ledger – each licensee whose gambling related sales exceed \$500,000 per year, shall have a general ledger which shall contain, in addition to all other accounts by month, a separate sales account for each type of sale.

(6((-))) Bank reconciliation – a bank reconciliation shall be performed each month. In addition, all undeposited funds at year end shall be reconciled in an account titled cash on hand.

(7((-))) Copies of all financial data which support tax reports to any and all governmental agencies.

(8((-))) Manufacturer shall maintain records that provide an accountability trail for all identification and inspection stamps purchased. These records shall include enough details to allow audit of all used, unused, and damaged stamps and includes the following minimum items:

(a) The name of the purchaser;

(b) The date of the sale; and

(c) The invoice number recording the sale.

(9) An alternative format may be used for sections (1)(a), (1)((:)) (g)(ii), (1)(g)(iii), (1)(h), (2), and (3), above upon advance written approval from the commission.

((Each of these records shall be maintained for a period of not less than three years from the end of the licensee's fiscal year.))

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 161, filed 9/15/86)

WAC 230-08-130 QUARTERLY ACTIVITY REPORTS BY OPERATORS OF PUNCHBOARDS AND PULL TABS. Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below during each of the following periods of the year:

- January 1st through March 31st
- April 1st through June 30th
- July 1st through September 30th
- October 1st through December 31st

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee then the preparer shall also sign the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

- (1) Gross sales, other than licensed gambling activities during the reporting period;
- (2) That portion of the gross sales that relates solely to the sale of food and drink for consumption on the premises;
- (3) The gross gambling receipts from punchboards and the gross receipts from pull tabs;
- (4) The total amount of cash prizes paid out and the cost to the licensee of all merchandise prizes paid out, for punchboards and for pull tabs;
- (5) Full details of all expenses related to the purchase and operation of punchboards and pull tabs; and
- (6) Total net gambling income.
- (7) For the calendar quarter ending December 31, 1988, the number of punchboards and the number of pull tab series that were either in play and in inventory awaiting play as of the end of business on September 30, 1988;
- (8) For all calendar quarters ending after September 30, 1988, the number of punchboards and the number of pull tab series removed from play during the period; and
- (9) For all calendar quarters ending after September 30, 1988, the number of punchboards and the number of pull tab series purchased during the period, less all unplayed devices returned for credit during the period.

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-30-015 (~~IDENTIFICATION AND INSPECTION SERVICES STAMP AND~~) SUBSTITUTE FLARES. (~~1~~) ~~No punchboard, series of pull tabs, or device for the dispensing of pull tabs shall be sold or purchased within this state or knowingly for use within this state or put out for play unless and until a stamp obtained from the commission containing an identifying number, symbol or combination thereof has been permanently and conspicuously affixed thereto. Once placed, such stamp shall not be removed or tampered with by any person.~~

~~With respect to punchboards, the stamp shall be placed so the complete number, together with any symbol appearing thereon, is plainly visible.~~

~~With respect to series of pull tabs, the stamps shall be placed upon the dispensing device sold together with, and for that specific series or upon a flare furnished by the manufacturer for that series.~~

(2)) A substitute flare may be utilized on punchboards or pull tabs. Substitute flares shall have the Washington state identification and inspection services stamp number assigned to the punchboard or pull tab series permanently recorded in ink on the face of the substitute flare. Such flare shall also show the series number assigned to that ((series)) device by the manufacturer. If a ((different flare than the flare so stamped is used for display when the series of pull tabs is put out for play)) substitute flare is used for a pull tab series, then the manufacturer's flare, with the manufacturer's series number and ((with)) the identification and inspection services stamp obtained from the commission thereon, shall be attached to the back of the substitute flare in such a manner as to be clearly visible to a person playing the device.

~~The responsibility for ((placing)) recording the Washington state identification and inspection services stamp number on the substitute flare shall rest with the ((licensed operator.~~

(3) ~~Stamps shall be placed only on items which conform to all requirements of this state's laws and the rules of this commission, and shall not be placed upon items not authorized for use within this state. Stamps shall be placed only upon those pull tab dispensing devices which have been approved by the commission pursuant to WAC 230-30-095.~~

(4) ~~Identification stamps shall be obtained only from the commission, by a licensed manufacturer only, for twenty-five cents each. Fees obtained from the sale of such stamps shall be used to offset the cost of the stamps and their distribution as well as the punchboard/pull tab special inspection services set forth in WAC 230-30-030. Such stamps shall be placed by the licensed manufacturer only on items which he, himself, sells or furnishes, and shall not be transferred or furnished to any other person unless already placed upon a punchboard, series of pull tabs or pull tab dispensing device.~~

(5) ~~No person not a licensed manufacturer shall obtain such stamps from any source, nor shall he affix such a stamp to any punchboard, series of pull tabs or pull~~

tab dispensing device, after November 1, 1974.) manufacturer, distributor, or operator who changes the original flare and attaches the substitute flare.

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

~~WAC 230-30-018 ((SELLERS OF PUNCHBOARDS, PULL TABS, OR PULL TAB DISPENSING DEVICES TO PUT COMMISSION STAMP NUMBERS ON INVOICES)) TRANSFER OF ANY GAMBLING DEVICES REQUIRING IDENTIFICATION AND INSPECTION SERVICES STAMPS TO BE AFFIXED-REQUIREMENT FOR DOCUMENTATION. (1) Persons selling or otherwise furnishing punchboards, pull tabs, or pull tab dispensing devices shall ((set out the commission stamp number of each item sold on each invoice and other documents used in connection with the sale.~~

~~Distributors shall account for each punchboard, pull tab series, and mechanical pull tab dispensing device which has a commission identification stamp affixed thereto. All punchboards, pull tab series, and mechanical pull tab dispensing devices returned to the manufacturer shall be listed by the commission identification stamp on an invoice used in connection with the transaction)) account for every such device received and/or transferred. All transfers shall be made by completing a sales invoice or credit memo. Each invoice or credit memo shall set out the identification and inspection services stamp number affixed to each device transferred.~~

~~(2) Manufacturers shall maintain records that will allow accountability for all identification and inspection services stamps issued to them by the commission, for at least three years after they are affixed to devices and sold. This accountability shall be by indefinite retention of unused or damaged stamps or by records as set out in WAC 230-08-025: Provided that damaged stamps may be returned to the Commission and will be replaced with serviceable stamps if they are accompanied by a detailed listing of the damaged stamp numbers and a ten cent per stamp service charge.~~

NEW SECTION

WAC 230-30-072 PUNCHBOARD AND PULL TAB INVENTORY AND RETENTION REQUIREMENTS. Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for in the following manner:

(1) Each operator shall closely monitor punchboard and pull tab series purchased to assure that all identification and inspection service stamp numbers are correctly entered in all records and each device purchased is recorded. The following control procedures apply:

(a) After the close of business on September 30, 1988, and before operating punchboards and pull tabs after that date, each operator shall take a physical inventory of all punchboards and pull tabs in-play and awaiting play and record the following information separately for punchboards and pull tabs:

- (i) Name of game; and
- (ii) I.D. stamp number;

(b) At the time punchboards and pull tabs are delivered, each operator will assure that all purchase invoice data is correct by comparing the actual I.D. stamp numbers on each punchboard/pull tab series to the numbers entered on the purchase invoices;

(c) After December 31, 1988, all purchases of punchboards or pull tabs shall be recorded on a standard distributor's invoice, which includes space for the operator to either attach a records entry label or enter the identification and inspection stamp number and the date the device was placed out for play. For all punchboards or pull tab series purchased after December 31, 1988, the operator shall enter the date and the identification and inspection service stamp number in the space on the invoice, adjacent to the distributors entry, by either attaching a records entry label or by written entry;

(d) After December 31, 1988, if a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "Returned" on the original purchase invoice: Provided, that licensees may use a commission approved inventory log to comply with subsections (c) and (d) of this section;

(2) Each punchboard or pull tab series which is removed from operation, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator for at least four months following the last day of the month in which it was removed from play. The board, unplayed tabs, flare, and all winning punches or tabs shall remain available for inspection, on the licensed premises, by commission agents and/or local law enforcement and taxing agencies: Provided, that devices may be stored off premise if they are produced for inspection upon demand;

(3) Each punchboard or pull tab series which is not placed out for public play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by commission agents and/or local law enforcement and taxing agencies: Provided, that devices may be stored off premise if they are produced for inspection upon demand;

(4) Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: Provided, that the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent.

WSR 88-13-061
EMERGENCY RULES
GAMBLING COMMISSION
[Order 178—Filed June 14, 1988]

Be it resolved by the Washington State Gambling Commission, acting at Wenatchee, Washington, that it

does adopt the annexed rules relating to amendatory section WAC 230-46-020; and new section WAC 230-46-070.

We, the Washington State Gambling Commission, 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 to protect the public licensed operators, and to maintain integrity in promotional contests. The rules will prohibit pull tab, punchboards and pull tab dispensing devices from being utilized in these contests.

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

This rule is promulgated pursuant to RCW 9.46.070 (11), (14) and (20) 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 June 10, 1988.

By Frank L. Miller
Deputy Director

AMENDATORY SECTION (Amending Order 156, filed 3/20/86)

WAC 230-46-020 **DEFINITIONS.** (1) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

(2) "Promotional contest of chance" means a scheme designed to promote a specific business, product(s) or service, and not the scheme itself, in which a person, association, or an organization may distribute money or property among individuals who have agreed to participate in a contest of chance equally with other participants, providing no participant is required to do more than the allowable methods of entry authorized under the provisions of RCW 9.46.03((~~0-10~~)(a)(i)-(ix)) 55.

(3) "Promotional material" means all material which defines the rules of a particular promotional contest of chance, which may extend to a description or an explanation of a product(s), service(s), or combination(s) thereof being promoted.

(4) "Perusing promotional material" means to read or examine contest rules and/or the specific product(s), service(s), or combination(s) thereof being promoted: *Provided, That the contest rules or its promotional material shall disclose any additional requirement(s) to attend a demonstration, tour a facility or specific areas, visit a specified location or similar activity, to include the approximate length of time in connection with a promotional scheme: Provided further, That any tour, demonstration, visit, or combination of requirement(s) will not extend beyond a total of two consecutive hours in duration.*

NEW SECTION

WAC 230-46-070 **PUNCHBOARDS/PULL TABS AND PULL TAB DISPENSING DEVICES NOT TO BE USED IN PROMOTIONAL CONTESTS - EXCEPTION.** (1) *Punchboards/pull tabs and pull tab dispensing devices may not be used as a part of any promotional contest of chance as authorized in RCW 9.46.0355. This prohibition shall not apply to promotional game cards which could otherwise qualify as pull tabs when such game cards meet the following standards:*

(a) *The promotional game cards are readily distinguishable from any specific pull tab series or pull tab type used within the State of Washington;*

(b) *The promotional game cards are designed and manufactured for a specific and unique promotional contest of chance;*

(c) *The promotional game cards clearly display the name of the sponsoring business or the name of the product(s) being promoted;*

(d) *The promotional game cards do not or have never contained a price per play on the card;*

(e) *The official rules of play including the language "no purchase necessary" are printed on the back of each promotional game card; and*

(f) *A game card or prototype thereof, must be submitted to the Commission for review prior to being utilized in this state.*

(2) *Promotional game cards, punchboards/pull tabs or dispensing devices found to be in violation of this prohibition shall be subject to immediate seizure pursuant to RCW 9.46.230.*

WSR 88-13-062

PROPOSED RULES

GAMBLING COMMISSION

[Filed June 14, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 230-02-125, 230-04-199, 230-04-455, 230-20-010, 230-20-100, 230-20-240, 230-40-030, 230-40-055, 230-40-120 and 230-40-200; and new section WAC 230-20-241;

that the agency will at 10:00 a.m., Friday, August 12, 1988, in the Campbells Lodge, Chelan, 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 9.46.070.

Dated: June 14, 1988

By: Frank L. Miller
Deputy Director

STATEMENT OF PURPOSE

Title: WAC 230-02-125 Adjusted net gambling receipts defined; 230-04-199 Class R recreational card games conducted by a bona fide charitable or bona fide nonprofit organization; 230-04-455 Employees to wear identification tags; 230-20-010 Disclosure of prizes and rules; 230-20-100 Receipting required for income and prizes in bingo games; 230-20-240 Bingo equipment to be used; 230-20-241 Players selection games; 230-40-030 Number of tables and players limited; 230-40-055 Card tournaments for fee and prizes; 230-40-120 Limits on wagers in card games; and 230-40-200 Participants to compete on equal terms.

Description of Purpose: Changes method of operation of card room activity; and sets forth operational safeguards for bingo and simplifies rules for player selection games.

Statutory Authority: RCW 9.46.070 (8), (11) and (14).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-02-125 allows for the deduction of punchboard and pull tab, and card room supplies in determining adjusted net gambling receipts; 230-04-199 removes 25% guest restriction. This will help the organization maintain active social card games; 230-04-455 removes the off duty employee identification tag requirement. It would allow these employees to participate without the stigma that is currently present when they wear their tag; 230-20-010 allows organization to change prize format in the event of inclement weather, or other unforeseen emergency. It will result in a safeguard for organizations from payout violations; 230-20-100 authorizes player selection game equipment. It is necessary to implement new section WAC 230-20-241; 230-20-240 authorizes player selection game equipment. It is necessary to implement WAC 230-20-241; 230-20-241 authorizes new formats for bingo. It simplifies the requirements for player selection games; 230-40-030 raises player limitation from current level of 10. It would allow smaller licensees to accommodate 11 or more players; 230-40-055 restructures the entry fee and removes notice requirements and increases buy-in from 200 to 300 dollars. Simplifies the tournament process; 230-40-120 raises the last two rounds to ten dollar betting limit and allows for a live blind. This will make a better playing game from participants standpoint; and 230-40-200 removes the rotation of the deal requirement and would allow for a center dealer. The center dealer would remove the current intimidation factor associated with dealing and should bring in more new players.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director, and Frank L. Miller, Deputy Director, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504, 234-1075 scan, 753-1075 comm.

Proponents and Opponents: WAC 230-20-010, 230-20-100 and 230-20-240 were proposed by the Bingo

Committee. The remainder of the proposals were submitted by licensee petitions. The summaries above represent the views of the petitioners, and not the commission staff.

Agency Comments: The agency believes the proposed amendments and new rule are self-explanatory and need no further comment.

These amendments and new rule were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined there may be an economic impact upon a certain number of licensees administered by this agency by the adoption of this amendment or new rule.

AMENDATORY SECTION (Amending Order 161, filed 9/15/86)

WAC 230-02-125 ADJUSTED NET GAMBLING RECEIPTS DEFINED. "Adjusted net gambling receipts" means the combined income from all gambling activities that are compared to gross sales for determination of commercial stimulant compliance. Adjusted net gambling receipts are determined by deducting the following expenses from net gambling receipts, when they are supported by verifiable records and actually paid out during the period:

(1) Federal, state, and local taxes and fees, other than income taxes, directly relating to the gambling activity: Provided, That taxes and fees may be deducted using the accrual accounting method if all accounting records are normally maintained on the accrual method and notice is provided to the commission;

(2) The cost of one licensed card room employee to be on duty any time the activity is open for business: Provided, That the total cost allowed shall not exceed \$12.50 per hour of operation; ~~(and)~~

(3) The cost of providing a "pan" dealer as allowed by WAC 230-40-225: Provided, That the total cost allowed shall not exceed \$7.50 per hour of operation~~(:); and~~

(4) The cost of punchboards, pull tabs and cards and chips actually used to operate the gambling activity as required by WAC 230-40-070.

AMENDATORY SECTION (Amending Order 89, filed 4/18/79)

WAC 230-04-199 CLASS R RECREATIONAL CARD GAMES CONDUCTED BY A BONA FIDE CHARITABLE OR BONA FIDE NONPROFIT ORGANIZATION. (1) Bona fide charitable or bona fide nonprofit organizations will be issued, and may permit the playing of social card games on their premises under, a Class R recreational card game license only when the following conditions are met:

(a) No person is charged, directly or indirectly, more than \$1.00 in cash, or goods or services, to play in card games permitted on the premises in any calendar day; and

(b) Only bona fide members and guests of the organization are permitted to play in the card games ~~((with the number of guests not exceeding 25% of those persons playing at any one time)); and~~

(c) Only bona fide members of the organization who are not compensated for such services are permitted to perform any work or service in support of such card games; and

(d) Only the following card games are permitted by the licensee:

- (i) Hearts,
- (ii) Rummy,
- (iii) Pitch,
- (iv) Pinochle,
- (v) Cribbage,
- (vi) Bridge.

See WAC 230-40-015 to determine rules of these games.

(2) Applications for such Class R recreational card room licenses shall be made on a simplified form prepared by the director submitted in the manner, and including the information, required by WAC 230-04-065(4):

(3) Class R licensees need not comply with the following rules of the commission:

(a) WAC 230-04-280, requiring notice to local law enforcement of the activity;

(b) WAC 230-08-010 and 230-08-090, respecting recordkeeping; and WAC 230-08-160, respecting quarterly reports, but the licensee must, in the alternative, maintain those records required by WAC 230-08-015, such records to be retained by the licensee for a period of not less than one year from the end of the license year for which the record is kept;

(c) WAC 230-40-020, limiting the part of premises which may be used for card playing;

(d) WAC 230-40-030, limiting the number of tables and players;

(e) WAC 230-40-050, fees for card playing, provided the \$1.00 per day limit set out in (1)(a) above may not be exceeded;

(f) WAC 230-40-070, requiring the licensee to furnish all cards, chips and other services;

(g) WAC 230-40-080, prohibiting people from bringing their own cards and chips; and

(h) WAC 230-40-130, requiring wagers to be made only with chips.

AMENDATORY SECTION (Amending Order 86, filed 7/20/78)

WAC 230-04-455 EMPLOYEES TO WEAR IDENTIFICATION TAGS. Each employee required to obtain a license from the commission shall wear an identification tag at all times while working or playing in the gambling activity on the employer's premises. The identification tag shall be a minimum of 3" X 2" and shall display the employee's full name and the name of the gambling operator or establishment. All information on the identification tag shall be clear and easily visible to the players in the gambling activity. The identification tag shall be worn on the employee's chest. It shall be furnished to the employee by the operator, who shall be equally responsible with the employee to insure the identification tag is displayed as required by this rule.

While playing cards off-duty on the employer's premises the licensed employee must wear the identification tag unless a sign is clearly posted in the card room as follows: "Employees of this card room may participate in the card games while off-duty as players. Upon your request, the card room floor person will identify any employee playing cards."

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 157, filed 4/11/86)

WAC 230-20-010 DISCLOSURE OF PRIZES AND RULES. All prizes awarded in connection with bingo and amusement games, whether in cash or merchandise, and all rules by which such prizes may be won, including all costs to a participant, shall be disclosed to each participant in the licensed activity prior to that participant taking part in the activity or paying for the opportunity to take part in the activity.

Disclosure shall be made by conspicuously posting or displaying upon the premises where the activity is operated, the available prizes, or a list and complete description thereof, together with the rules of the activity, an explanation of how each prize can be won, and the cost to participate in the activity.

Any advertisements or published information pertaining to bingo prizes, to be awarded at bingo games, must disclose if there are any contingencies which may result in changes to these prizes. In case of inclement weather, natural disaster, or other unforeseen emergency, bingo prizes and game format may be changed; PROVIDED, a sign with the changes must be conspicuously posted so that all participants are aware of any changes prior to paying for the opportunity to play.

In those cases where persons are able to pay for the opportunity to participate in the activity after the winner of any one of the prizes offered has been determined, the licensee shall remove each prize won from any display of prizes, and from any list of prizes which have been posted or displayed upon the premises where the activity is conducted, immediately upon the determination of the winner of that particular prize.

AMENDATORY SECTION (Amending Order 157, filed 4/11/86)

WAC 230-20-100 RECEIPTING REQUIRED FOR INCOME AND PRIZES IN BINGO GAMES. Except for bingo activities conducted at a qualified agricultural fair all income from bingo games shall be receipted for by the licensee at the time the income is received from each individual player and all prizes shall be receipted for at the time the prize is distributed to each individual winner.

(1) Income receipts: Income receipts shall be supplied by the licensee. They may be consecutively numbered tickets, consecutively numbered disposable bingo cards, or cash register receipts. Each individual player must possess a proper receipt for the number of cards being played in order to be awarded the prize for the game.

(a) Cash register receipts for income: In the event a cash register is used, a consecutively numbered receipt shall be given to the customer. The following information shall appear upon the receipts given to the customer:

(i) The name of the licensee operating the activity;

(ii) The date;

(iii) The amount of money paid for the opportunity to play; and

(iv) The consecutive customer receipt number.

The cash register shall have a consecutive four digit customer receipt number which does not return to zero at the conclusion of any period of use.

Written commission staff approval must be obtained for use of a cash register which does not meet the above standard but does contain adequate control features.

The cash register shall have sufficient keys to record separately each type of sale as required by WAC 230-08-080, and shall provide a total for each type of sale recorded. Further, any cash register used must retain its transaction count between uses whether or not its power source is interrupted.

All cash register receipts for voids, overrings, returns, no sales and any other related receipts must be retained with the daily bingo records.

All transactions, customer receipt numbers, and control totals must be recorded on the tape retained in the cash register. The internal tape, showing these transactions, shall be retained with the daily records of the licensee for a period of not less than three years. If the cash register is used by the licensee for purposes other than recording the receipts from bingo, the internal cash register tapes from the other uses shall also be retained for not less than three years.

(b) Ticket receipts for income: When tickets are used for receipting the following conditions must be met:

(i) All tickets on a roll must be preprinted by the manufacturer with a consecutive number prior to purchase;

(ii) Each ticket on a roll shall represent the same specific amount of money and the amount of money represented by each ticket shall be clearly preprinted by the manufacturer on the face of the ticket;

(iii) Once a roll of tickets has been started, tickets shall be issued consecutively off of that roll;

(iv) A log shall be maintained, listing the date each roll of tickets is purchased or obtained by the licensee, the color, the dollar value of the tickets, the beginning ticket number, and the number of tickets on that roll. All tickets received shall be entered in the log prior to the licensee beginning the next bingo occasion. The individual logging the entry shall initial the log at the time of entry; and

(v) The licensee shall record in its daily records, the color, the value, the lowest numbered ticket and the highest numbered ticket issued as a receipt from each separate roll of tickets used. Tickets issued for each type of sale shall be recorded separately as required by WAC 230-08-080. Any ticket not issued as a receipt during a session that bears a number falling below the highest numbered ticket issued shall be retained by the licensee as a part of its daily records, along with any leftover tickets not issued from the end of a roll, and shall not be otherwise used or disposed of by the licensee for a period of not less than three years

(c) Disposable bingo card receipts for income: Disposable bingo cards themselves may be used as the receipt required by this rule: Provided, That:

(i) Each disposable card or sheet of cards sold represents a specific amount of money which has been paid to the licensee;

(ii) Each disposable card or sheet of cards from the same series shall be consecutively issued and sold for the same price as each other disposable card or sheet of cards in the same series: Provided, that sets of cards used in player selection games, which do not have a unique series number assigned, shall be treated as one series. In addition, each different color of cards shall constitute a different series;

(iii) A log shall be maintained, listing the date each set of disposable cards is purchased or obtained by the licensee, the series number, the color, the number of cards per sheet, the beginning card or sheet number and the number of cards or sheets per set. Licensees are prohibited from purchasing or utilizing cards for player selection games which have duplicate card or sheet numbers and are the same color, unless the set of cards has an unique series number assigned. All disposable

cards or sheets received shall be entered in the log prior to the licensee beginning the next bingo occasion. The individual logging the entry shall initial the log at the time of entry; and

(iv) The licensee shall record in its daily records the series number, the color, the value, the beginning card or sheet number and the ending card or sheet number issued as a receipt for each separate set of disposable cards used: Disposable cards issued for each type of sale shall be recorded separately as required by WAC 230-08-080: Provided, That when more than one card or sheet number appears on a sheet of cards issued, then the lowest card or sheet number shall be used to determine the beginning number sold and the ending number sold. Each time the numbering of the sheets breaks in the series a separate entry shall be made in the records. Disposable cards or sheets of cards which were not issued as receipts during a session, that bear a number below the highest numbered card or sheet issued shall be retained by the licensee as a part of its daily records, along with any leftover cards, or sheets of cards, not issued from the end of a series, and shall not be otherwise used or disposed of by the licensee for a period of not less than three years.

(2) Receipts for prizes: Receipts for prizes shall be consecutively numbered and issued. Each prize receipt shall contain at least a three digit consecutive number, printed prior to purchase. Prize receipts bearing a number below the highest number issued shall be voided and retained with the daily records. Each receipt for prizes shall contain the following information:

- (a) The name of the licensee operating the activity;
- (b) The date;
- (c) The game number;
- (d) The true name and address of the winner of the prize; and
- (e) A description of the prize won and the licensee's cost of that prize.

It shall be the responsibility of the licensee to see that the prize winner is accurately identified upon the receipt and the licensee shall require such proof of identification as is necessary to establish the winner's identity. The licensee shall not pay out any prize until the winner has furnished to the licensee all information required by this rule to be upon the receipt for the prize.

The original of each prize receipt shall be given to the winner and a duplicate copy shall be retained by the licensee as a part of its records for a period of not less than three years.

Provided, That Class A bingo licensees and persons conducting bingo under the provisions of RCW 9.46.030(3), are exempt from all portions of this rule. Class B bingo licensees are exempt from maintaining the required logs for ticket and disposable card receipting, and from the issuing of prize receipts so long as they record items (2)(b), (c), (d) and (e) above in their records.

AMENDATORY SECTION (Amending Order 157, filed 4/11/86)

WAC 230-20-240 BINGO EQUIPMENT TO BE USED. The conduct of bingo must include the following required items:

(1) A mechanical device which uses an air flow for mixing and randomly withdrawing balls to determine the letters and numbers to be called must be utilized by all class D and above operators. This device shall be constructed in a manner that:

(a) Will allow participants full view of the mixing action of the balls; and

(b) The operation cannot be interrupted to change the random placement of the balls at the exit receptacle of the device, except when the device is shut off as allowed by WAC 230-20-246.

~~((Provided, that A, B, and C licensees are not required to use a mechanical device for the conduct of their bingo game, but may use other methods of randomly selecting letters and numbers.))~~

(2) A set of seventy five balls bearing the numbers 1 through 75 and the letters B, I, N, G, and O. The 75 balls shall be available for inspection by the players before a bingo session begins to determine that all are present and in operating condition. Each numbered ball shall be the same weight as each of the other balls and free from any defects.

(3) Flashboards shall be ~~((located on each premises used to conduct bingo games and))~~ utilized to display numbers called at all class D and above bingo games. They must be visible to all players and clearly indicate all numbers that have been called: Provided, That malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion~~((:));~~ ~~((Provided further, That A, B, and C licensees are not required to have a flashboard for conduct of their bingo game.))~~

(4) ~~Except as provided for under WAC 230-20-241, ((H))~~hardcards and disposable bingo cards must be preprinted, manufactured cards and have twenty five spaces, one of which may be a free space, arranged in five even columns headed with the letters B, I, N, G, and O. ~~((Provided, That the numbers designated on each card may be selected and entered by the players, if the following conditions are met:~~

(a) A two part disposable card that provides an exact duplicate copy is used;

(b) The disposable card method of receipting for income per WAC 230-20-100 (1)(c) is used;

(c) The licensee shall not purchase or use disposable cards without predesignated numbers if the purchase invoice does not contain all the items required by WAC 230-20-100 (1)(c)(iii);

(d) Purchase invoices for all disposable cards in play or in the unplayed inventory are on the premises;

(e) Players shall mark their number on each card and initial the original of each sheet of cards prior to separation of the duplicate;

(f) All numbers must be clear and legible. Operators shall establish and display house rules setting out acceptable clarity;

(g) All original cards shall be placed in containers which shall be physically locked and controlled to assure no cards are placed in the container after the first bingo ball is called;

(h) The player retains and plays the duplicate copy;

(i) In addition to the requirements of WAC 230-20-246(12), a winning card of \$250.00 or more is verified by the winner's signature on the back of the duplicate copy and the verifying neutral player's name and complete address on the back of the original card;

(j) All winning cards and the duplicate copies shall be retained by the operator as a part of their daily bingo records; and

(k) Incomplete cards and cards with alterations shall not be paid as winners. Numbers or initials, on the duplicate copy of a card, which were completed by any means other than by the original duplicating function, will be considered an alteration. Altered cards are the players' responsibility and refunds or exchanges shall not be allowed.)

(5) Each set of disposable bingo cards must be consecutively numbered from the first card to the last card, or from the first sheet of cards to the last sheet of cards. Each card or sheet must have printed on its face both its individual card or sheet number, and the series number assigned by the manufacturer to that set of disposable cards: Provided, that cards used in player selection games may be exempted from having separate series numbers if:

(a) The card or sheet numbering system has at least six digits and the numbering sequence for any set of cards of the same color does not repeat in less than 999,999 numbers; and

(b) Cards or sheet of cards of the same color with duplicate numbers, must not be purchased, maintained, and/or utilized on the bingo premises, prior to completing play of all similarly numbered and colored cards.

~~((Other equipment or devices may be used for the purpose of displaying numbers and letters called to the public, and such furniture and sound amplification system as is necessary for the convenience and comfort of the players and operators.))~~

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 230-20-241 PLAYER SELECTION GAMES. A licensee may offer bingo games in which players are allowed to select their own numbers. In such games, the cards used are not required to have five even columns with preprinted letters if the following conditions are met:

(1) A two part disposable card that provides an exact duplicate copy is used;

(2) The disposable card method of receipting for income per WAC 230-20-100 (1)(c) is used. The licensee shall not purchase or use disposable cards without predesignated numbers and letters unless the purchase invoice contains all the items required by WAC 230-20-100 (1)(c)(iii). Purchase invoices for all disposable cards, either in play or in the unplayed inventory, are maintained on the premises;

(3) Players shall mark their numbers on each card in a distinct, clear, and legible manner prior to separation of the duplicate and original cards. Operators shall establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or

changed prior to separation. Any such changes must be verified by a worker authorized by the bingo manager;

(4) All original cards shall be placed in containers which shall be physically locked and controlled to assure no cards are placed in the container after the first bingo ball is called;

(5) The player retains and plays the duplicate copy;

(6) In addition to the requirements of WAC 230-20-246(12), a winning card of \$250.00 or more is verified by the winner's signature on the back of the duplicate copy and the verifying neutral player's name and complete address on the back of the original card;

(7) All winning cards and the duplicate copies shall be retained by the operator as a part of their daily bingo records; and

(8) Incomplete cards and cards with alterations which were not verified per subsection (3) above shall not be paid as winners. Numbers or initials, on the duplicate copy of a card, which were completed by any means other than by the original duplicating function, will be considered an alteration. Altered cards are the players' responsibility and refunds shall not be allowed: Provided, that a one-for-one exchange may be made by the game management in cases where errors are discovered prior to separating the duplicate and original sheets. In this case the operator will mark "VOID" on the original, initial next to the players initials and maintain the replaced card with their daily bingo records.

AMENDATORY SECTION (Amending Order 143, filed 1/9/85)

WAC 230-40-030 NUMBER OF TABLES AND PLAYERS LIMITED. (1) No licensee to allow a public card room on its premises shall allow more than five separate tables at which card games are played (~~, nor shall allow more than ten players to participate at any one table at any given time.~~

(2) ~~No licensee to allow a social card room on its premises shall allow more than ten players to participate at any one table at any given time.~~

(3) (2) The commission may permit a licensee to exceed these limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding the date upon which the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion.

AMENDATORY SECTION (Amending Order 160, filed 8/18/86)

WAC 230-40-055 CARD TOURNAMENTS FOR FEE AND PRIZES. (1) A card tournament wherein a fee is charged to the participants and prizes are awarded to the winning players shall be licensed by the commission. Card room licensees with a Class A, B, or E license may conduct a card tournament for a fee without obtaining a card tournament license: Provided, That Class B licensees are limited to only those card games authorized under their licensing class. Card room licensees with a Class D or R license must first obtain a card tournament license before they can conduct a card tournament in which the players are charged a fee to enter. (~~The licensee shall notify the commission ten days in advance of any card tournament where the players are charged a fee to enter.~~) A card tournament shall not exceed ten consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed \$50.00, including all separate fees which might be paid by a player for various phases or events of the tournament, and fees for material benefits provided the tournament participants such as t-shirts, hats, and food. The total buy-in per player shall not exceed ~~\$(2))~~300.00 per tournament.

(3) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in paragraph (2) above.

(4) The licensee may adopt house rules to facilitate the operation of card tournaments: Provided, That all house rules must be (~~submitted to the commission for approval and~~) posted where all tournament participants can see and read the rules.

(5) The licensee shall maintain a record of all such fees collected and the number of participants for each tournament conducted. This information shall be entered on the card room daily control sheet for the time and date the tournament begins.

(6) The licensee shall maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant.

AMENDATORY SECTION (Amending Order 159, filed 7/14/86)

WAC 230-40-120 LIMITS ON WAGERS IN CARD GAMES. The following limits shall not be exceeded in making wagers on any card game. For games in which the following method of wagering is allowed:

(1) Multiple wagers per player per hand during each round, each wager or raise shall not exceed \$5.00. There shall be no more than a total of two raises per round irrespective of the number of players: Provided, That in card games providing for ~~((three))~~ four or more rounds of betting, the wager or raise for the last two rounds of betting, shall not exceed \$10.00.

(2) Single wagers per player per hand during each round (no raises), each wager shall not exceed \$5.00.

(3) Single wager per player per game, each wager shall not exceed \$5.00.

(4) Amount per point, each point shall not equal more than five cents in value.

(5) An ante, except for panguingue (pan), shall not be more than twenty-five cents per person per hand to be played, contributed by each player, or the dealer of each hand, subject to house rules, may ante for all players before dealing in an amount not to exceed \$2.00. In lieu of an ante, the licensee may, by house rule, authorize ~~((one blind and not more than two straddles. The blind will not exceed \$1.00 and the straddles will not exceed \$3.00. The blind and straddle will become part of the player's wager. The maximum betting round when a blind and straddle are used shall not exceed \$15.00.))~~ "a live blind." A "live Blind" is an amount placed into the pot before the hand is dealt and counts as part of or as a player's bets if the player participates in the hand. A live blind may not exceed \$5.00, and there may not be more than three. The maximum betting round when a live blind is used shall not exceed \$15.00 exclusive of authorized raises.

(6) Forced wagers or raises in poker are prohibited except as an ante. In other authorized games, forced wagers and raises are prohibited except as they may be expressly included within the basic definition of the particular card game in Hoyle's Modern Encyclopedia of Card Games, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974 1st edition, pages 219-277.

(7) Panguingue (pan) - maximum value of a chip for payoff will not exceed \$2.00. Ante will not exceed one chip. No doubling of conditions. Players going out, may collect not more than two chips from each participating player.

No licensee shall allow these wagering limits to be exceeded in a card game on his premises.

AMENDATORY SECTION (Amending Order 40, filed 6/26/75)

WAC 230-40-200 PARTICIPANTS TO COMPETE ON EQUAL TERMS(~~(DEAL TO ROTATE AMONG PLAYERS))~~). Participants in card games shall compete on equal terms with all other participants in the game, and solely as a participant therein.

The deal in any series of card games (~~shall~~) may be passed from player to player. No player who deals a game shall deal another game until each other player at the table has dealt a game in his turn: Provided, That any player may voluntarily waive his right to deal any particular game or any licensee may furnish a dealer or "mucker" in any card game played on the licensed premises, who shall have no financial interest, directly or indirectly, in the outcome of such game and who shall not otherwise participate or play in game.

Licensees shall take all necessary measures to insure that card games played upon their premises are played in ~~((this))~~ these manners.

WSR 88-13-063

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 88-31—Filed June 14, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington 98504, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 harvestable quota of chinook salmon is estimated to be caught.

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

This rule is promulgated pursuant to RCW 75.08.080 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 June 14, 1988.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-24-02000C LAWFUL ACTS—TROLL FISHERY. *Notwithstanding the provisions of WAC 220-20-010, WAC 220-20-020, and WAC 220-20-030, effective immediately it is unlawful to fish for or possess salmon taken for commercial purposes with troll gear in the waters west of the Bonilla-Tatoosh Line, the Pacific Ocean, or waters west of a line drawn true north-south through Buoy 10 at the mouth of the Columbia River except as provided for in this section:*

(1) *Effective 12:01 a.m. May 1, 1988 it is lawful to fish for and possess all salmon species except coho salmon taken from the above waters except for those waters of a conservation zone at the mouth of the Columbia River bounded by a line projected six miles due west from North Head along 46 18'00" north latitude to 124 13'18" west longitude, thence southerly along a line 167 true to 46 11'06" north latitude, 124 11'00" west longitude (the Columbia River Buoy), thence northeasterly along the Red Buoy Line to the tip of the south jetty from which conservation zone no salmon may be taken.*

(2) *The above open area will close effective 12:01 a.m. Wednesday, June 15, 1988.*

(3) *All salmon taken in the above described fishery must be landed prior to 12:01 a.m. Friday, June 17, 1988.*

(4) *Lawful terminal gear is restricted to single point, single shank barbless hooks.*

(5) *No chinook salmon less than 28 inches in total length or 21.5 inches head-off length may be retained.*

(6) *It is unlawful to fish for or possess salmon taken for commercial purposes with any gear other than troll gear in the open fishery area.*

(7) *It is unlawful to transport through Coastal Salmon Management and Catch Reporting Areas 1, 2, 3, or 4 or land in the State of Washington any salmon taken for commercial purposes contrary to the provisions of Chapter 220-32 WAC or Chapter 220-47 WAC relative to seasons and species provided for this section.*

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 15, 1988:

WAC 220-24-02000B LAWFUL ACTS—TROLL FISHERY.

WSR 88-13-064

PROPOSED RULES

DEPARTMENT OF GENERAL ADMINISTRATION

(Division of Banking)

[Filed June 14, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning the definition of the term "loans and extensions of credit," amending WAC 50-12-230(2).

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 26, 1988.

The authority under which these rules are proposed is RCW 30.04.030 and 30.04.111.

The specific statute these rules are intended to implement is RCW 30.04.111.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 1988.

Dated: June 14, 1988

By: Thomas H. Oldfield
Supervisor

STATEMENT OF PURPOSE

Title: Definitions.

Description of Purpose: Adopt as permanent an amendment previously adopted on an emergency basis changing the definition of "loans and extensions of credit" to exclude certain renewals or restructuring of existing loans by banks under the supervision of a conservator.

Statutory Authority: RCW 30.04.111.

Specific Statute Rule is Intended to Implement: RCW 30.04.111.

Reasons Supporting Proposed Action: A bank under the supervision of a conservator appointed by the supervisor of banking will, in many cases, have a very low or negative net worth. Application of the general lending limit standard to renewals or restructuring of existing loans would, in those instances, preclude such renewals or restructurings, even though they might be very beneficial to the rehabilitation of the bank.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Thomas H. Oldfield, Supervisor of Banking.

Person or Organization Proposing Rule: Division of Banking, Department of General Administration, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The division recommends the adoption of this amendment to assist in the rehabilitation of troubled

institutions. The amendment is not expected to have any fiscal impact.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 69, filed 9/30/87)

WAC 50-12-230 DEFINITIONS. (1) The term "person" shall include an individual, sole proprietor, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(2) The term "loans and extensions of credit" means any direct or indirect advance of funds to a person made on a basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person. "Loans and extensions of credit" also includes a "contractual commitment to advance funds" as that term is defined in this section, and includes a renewal, modification, or extension of the maturity date of a loan or extension of credit. Provided, the term "loan or extension of credit" does not include a renewal, extension or restructuring of an existing loan, with interest paid current and no further advance of funds, by a bank under the direction and control of a conservator appointed by the supervisor.

(3) The term "contractual commitment to advance funds" means:

(a) An obligation on the part of the bank to make payments (directly or indirectly) to a designated third party contingent upon a default by the bank's customer in the performance of an obligation under the terms of that customer's contract with the third party; or

(b) An obligation to guarantee or stand as surety for the benefit of a third party. The term includes, but is not limited to, standby letters of credit, guarantees, puts, and other similar arrangements. Undisbursed loan funds, loan commitments not yet drawn upon which do not fall under this definition, and commercial letters of credit or similar instruments are not considered contractual commitments to advance funds.

(4) The term "readily marketable collateral" means financial instruments and bullion which are saleable under ordinary circumstances with reasonable promptness at a fair market value determined by daily quotations based on actual transactions on an auction or a similarly available daily bid and ask price market.

(5) The term "financial instruments" shall include stocks, notes, bonds, and debentures traded on a national securities exchange, "OTC margin stocks" (as defined in Regulation U of the Federal Reserve Board), commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds of the type which issue shares in which banks may perfect a security interest.

(6) The term "current market value" means the bid or closing price listed for an item in a regularly published listing or an electronic reporting service.

(7) The term "capital" will include the amount of common stock outstanding and unimpaired, the amount of preferred stock outstanding and unimpaired, and capital notes or debentures issued pursuant to chapter 30.36 RCW.

(8) The term "surplus" shall include capital surplus, reflecting the amounts paid in excess of the par or stated value of capital stock, or amounts contributed to the bank other than for capital stock, and amounts transferred to surplus from undivided profits pursuant to resolution of the board of directors.

(9) The term "subsidiary" means:

(a) Any company twenty-five percent or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such person, or is held by it with power to vote;

(b) Any company the election of a majority of whose directors is controlled in any manner by such person; or

(c) Any company with respect to the management or policies of which such person has power, directly or indirectly, to exercise a controlling influence, as determined by the division, after notice and opportunity for hearing.

WSR 88-13-065

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed June 15, 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 disposition by a governmental agency of lawfully seized liquors, except those which are required to be delivered to the board under RCW 66.32.090, amending WAC 314-70-020;

that the agency will at 9:30, Wednesday, July 27, 1988, in the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504-2531, 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 66.08.030, 66.28.070 and 66.98.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Dated: June 13, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-70-020 Disposition by a governmental agency of lawfully seized liquors, except those which are required to be delivered to the board under RCW 66.32.090.

Description of Purpose: To amend WAC 314-70-020(4) to allow retail licensees to purchase lawfully seized wine from a governmental agency.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.08.030, 66.28.070 and 66.98.070.

Summary of Rule: Presently the rule allows retail licensees to purchase only lawfully seized wine from a governmental agency.

Reasons Supporting Proposed Action: RCW 66.28.070(2) presently allows retail licensees to purchase lawfully seized beer from a governmental agency. The proposed amendment would bring the rule into compliance with the statute and allow retail licensees to purchase lawfully seized beer as well as wine from a governmental agency.

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, Washington 98504, phone (206) 586-3052.

Person or Organization Proposing the 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 amendment.

AMENDATORY SECTION (Amending Order 109, Resolution No. 118, filed 8/9/82)

WAC 314-70-020 DISPOSITION BY A GOVERNMENTAL AGENCY OF LAWFULLY SEIZED LIQUORS, EXCEPT THOSE WHICH ARE REQUIRED TO BE DELIVERED TO THE BOARD UNDER RCW 66.32.090. Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, governmental agencies may, after obtaining the approval of the board and under the supervision of the board, dispose of lawfully seized liquors (except those which are required to be delivered to the board under RCW 66.32.090) as follows:

(1) The governmental agency may sell spirituous unopened salable liquor, and/or wine and beer previously purchased from the board, to the board as per procedure in WAC 314-70-040.

(2) The governmental agency may sell opened containers of liquor back to the Class H licensee from whom seized, if the licensee is going out of business, for the personal use of the licensee at a negotiated price after payment by the licensee to the board of an amount to be determined by the board in lieu of the Class H discount and tax exemption in effect at that time: PROVIDED, That if the licensee has not so purchased the opened bottles of liquor within the period of redemption, they shall be destroyed.

(3) The governmental agency may sell unopened beer and/or wine to the wholesaler selling the same as per procedure in WAC 314-24-210 and 314-20-070 at a negotiated price. Copies of inventory and bill of sale shall be furnished the board.

(4) The governmental agency may sell unopened salable wine and/or beer to appropriately licensed retailers at a negotiated price. Copies of the inventory and bill of sale shall be furnished the board.

(5) The governmental agency may ship the liquor out of the state of Washington.

WSR 88-13-066
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed June 15, 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 Prorating and refunding of fees—Discontinuance of business, amending WAC 314-12-040;

that the agency will at 9:30 a.m., Wednesday, July 27, 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 chapter 200, Laws of 1988 (HB 1295).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Dated: June 13, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-12-040 Prorating and refunding of fees—Discontinuance of business.

Description of Purpose: To provide that an application for a new annual retail license shall be accompanied by payment of a nonrefundable \$75.00 fee.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: Chapter 200, Laws of 1988 (HB 1295).

Summary of Rule: The rule presently provides that upon denial or withdrawal of an application for license, adoption or change of trade name, or change of location, the fee tendered therewith shall be returned.

Reasons Supporting Proposed Action: The rule as amended would further provide that such return shall not apply to the nonrefundable \$75.00 fee submitted with an application for a new annual retail license. The proposed amendment would bring the rule into compliance with a new section of chapter 66.24 RCW which provides that an application for a new annual retail license shall be accompanied by payment of a nonrefundable \$75.00 fee to cover expenses incurred in processing the application.

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, phone (206) 586-3052; and Lester C. Dalrymple, Supervisor, License Division, phone (206) 753-6259, Capital Plaza Building, Olympia, Washington 98504-2531.

Person or Organization Proposing the 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 amendment.

AMENDATORY SECTION (Amending Order 103, Resolution No. 112, filed 4/28/82)

WAC 314-12-040 PRORATING AND REFUNDING OF FEES—DISCONTINUANCE OF BUSINESS. (1) Unless otherwise provided by law, there will be no prorating of any license fee.

(2) Upon denial or withdrawal of an application for license, adoption or change of trade name, or change of location, the fee tendered therewith shall be returned: PROVIDED, HOWEVER, such return shall not apply to the nonrefundable seventy-five dollar fee submitted with an application for a new annual retail license.

(3) When a license is suspended or cancelled, or the licensed business is discontinued, no refund of the license fee shall be made.

(4) Upon discontinuance of business for twenty-one days or more by a licensee, he shall forthwith deliver up his license to the board, or representative of the board. A licensee who is not operating as a seasonal business and who has voluntarily discontinued sale of liquor in excess of forty-five days will not be eligible for renewal of license for a subsequent year unless sale of liquor under the license is resumed on a permanent basis prior to the beginning of the next subsequent licensing period.

WSR 88-13-067
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed June 15, 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 description of central and field organization of Washington State Liquor Control Board, amending WAC 314-60-030;

that the agency will at 9:30 a.m., Wednesday, July 27, 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 66.08.050 and 66.44.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Dated: June 13, 1988

By: L. H. Pedersen
 Chairman

STATEMENT OF PURPOSE

Title: WAC 314-60-030 Description of central and field organization of Washington State Liquor Control Board.

Description of Purpose: To delete references to locations of specific enforcement offices.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.08.050 and 66.44.010.

Summary of Rule: The rule presently states that enforcement offices including one at Olympia and one at the Seattle Distribution Center are maintained in major cities throughout the state.

Reasons Supporting Proposed Action: The rule as amended would delete the reference to the enforcement office located at the Seattle Distribution Center. That office has been relocated to Sixth Avenue in Seattle. The reference to the Olympia enforcement office would also be deleted. It is not necessary to list the locations of specific offices since the WAC already states that enforcement offices are located in major cities throughout the state.

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, Washington 98504, phone (206) 586-3052.

Person or Organization Proposing the 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 amendment.

AMENDATORY SECTION (Amending Order 97, Resolution No. 106, filed 1/27/82)

WAC 314-60-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF WASHINGTON STATE LIQUOR CONTROL BOARD. The board is an agency created to exercise the police power of the state in administering and enforcing all of the laws and regulations relating to alcoholic beverage control (Title 66 RCW).

(1) The board's major areas of activity are:

(a) Purchase, distribution and sale of liquor in the original package through its stores and agencies.

(i) All spirituous liquor in the original package is exclusively sold by the board.

(ii) Wines and malt beverages in the original package are sold by the board, and wines and beer can, under appropriate license, be sold by licensees.

(b) The licensing of the manufacture, distribution and sale of liquor. Licenses to retailers involve many different classifications and categories for the sale of liquor for on-premises and off-premises consumption. Licenses are also issued to manufacturers, breweries, wholesalers, importers, etc.

(c) The inspection of the activities and operations of liquor licensees and the enforcement of the liquor laws of the state of Washington and the rules and regulations of the board.

(2) The administrative offices of the Washington state liquor control board and its staff are located at:

(a) Main office, (~~Capitol~~) Capital Plaza Building, 1025 East Union Avenue, Olympia.

(b) Distribution center and stores and agencies division, 4401 East Marginal Way South, Seattle.

(c) Enforcement offices (~~(including one at Olympia and one at the Seattle distribution center);~~) are maintained in major cities throughout the state.

(d) Stores and agencies are maintained in cities, towns, and areas throughout the state.

WSR 88-13-068

PROPOSED RULES

DEPARTMENT OF PERSONNEL
(Personnel Board)

[Filed June 15, 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 356-15-090 Schedule change and compensation.
 Amd WAC 356-14-240 Overtime compensation method;

that the agency will at 10:00 a.m., Thursday, August 11, 1988, in the Board Hearings Room, Department of Personnel, 521 South Capital Way, 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 August 9, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-11-039 filed with the code reviser's office on May 13, 1988.

Dated: June 13, 1988
By: Leonard Nord
Secretary

APPROVED AND ADOPTED June 15, 1988.
By Joseph R. Blum
Director

WSR 88-13-069
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed June 15, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 22, 1988.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

This notice is connected to and continues the matter in Notice No. WSR 88-10-060 filed with the code reviser's office on May 4, 1988.

Dated: June 15, 1988
By: Judith Merchant
Deputy
for Joseph R. Blum
Director

WSR 88-13-070
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 88-32—Filed June 15, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 conforms Washington trawl regulations to federal regulations, and provides acceptable resource protection while reducing possibility of codends breaking and wastage of catch.

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

This rule is promulgated pursuant to RCW 75.08.080 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.

NEW SECTION

WAC 220-44-03000C COASTAL BOTTOM-FISH GEAR. Notwithstanding the provisions of WAC 220-44-030, effective immediately until further notice it is lawful to use double wall codends in coastal bottom-fish trawl gear provided that:

(1) Double wall codends may not be used in pelagic gear, nor in any trawl gear having mesh size less than 4.5 inches.

(2) The double walled layers of the codend must be the same mesh size and coincide knot-to-knot, and may not be longer than 25 meshes or 12 feet, whichever is greater.

WSR 88-13-071
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 88-34—Filed June 15, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 harvestable number of shrimp is available, and reducing the gear per commercial fisherman reduces the catch level effort and prevents the possibility of overharvesting the available resource.

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

This rule is promulgated pursuant to RCW 75.08.080 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 June 15, 1988.

By Judith Merchant
Deputy
for Joseph R. Blum
Director

NEW SECTION

WAC 220-52-05300V COMMERCIAL SHRIMP FISHERY—HOOD CANAL. Notwithstanding the provisions of WAC 220-52-053, it is unlawful for any fisherman to fish for or possess shrimp taken for commercial purposes from the waters of Hood Canal south of the Hood Canal Floating Bridge except from 9:00

a.m. June 23 to 6:00 p.m. July 4, 1988, and the maximum number of pots that may be fished by any one fisherman or fished from any one vessel is 35.

REPEALER

The following section of the Washington Administration Code is repealed:

WAC 220-52-05300U Commercial Shrimp Season—Hood Canal (88-26)

WSR 88-13-072

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security Department intends to adopt, amend, or repeal rules concerning security of personal identification number (PIN), new section WAC 192-18-012;

that the agency will at 9:00 a.m., Thursday, July 28, 1988, in the Employment Security Training Facility, Training Room #2, 106 Maple Park, 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 50.12.010 and 50.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 1988.

Please direct written comments to:

Wm. Eric Jordan
UI Rules Coordinator
Employment Security Department
212 Maple Park
Mailstop KG-11
Olympia, WA 98504

Dated: June 15, 1988

By: Ernest F. LaPalm
Deputy Commissioner

STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

WAC 192-18-012 Security of personal identification number (PIN), interpretive regulation.

This rule provides that no employee of the department should be knowledgeable of any claimant's personal identification number (PIN). The PIN is used to access unemployment insurance benefits from the electronic benefit distribution system. The rule specifies the required action by employees who become aware of a claimant's PIN. The rule specifies penalties for violations.

This rule is adopted under the general rule-making authority of RCW 50.12.010 and 50.12.040.

This rule was drafted by Marie Brillante, Employment Security Program Coordinator 4, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Ms. Brillante may be reached by phone at (206) 586-8395.

These rules will be implemented and enforced by Jim Wolfe, Assistant Commissioner, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Mr. Wolfe may be reached by phone at (206) 753-5120.

NEW SECTION

WAC 192-18-012 SECURITY OF PERSONAL IDENTIFICATION NUMBER (PIN). No employee of the employment security department shall request, access, or attempt to access the personal identification number (PIN), issued in conjunction with the electronic benefit distribution system, of any person who files for or claims unemployment insurance benefits. An employee must immediately report such situations to his or her supervisor and advise the claimant to change his or her PIN code in the following cases:

(1) If an employee inadvertently hears or has knowledge of a claimant's PIN; or

(2) If an employee is aware of another employment security department employee who has knowledge, directly or indirectly, of a claimant's PIN. Violation of this section shall subject the offending employee to immediate dismissal or other disciplinary action.

WSR 88-13-073

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Order 6-88—Filed June 15, 1988]

I, Ernest F. LaPalm, deputy commissioner of the Employment Security Department, do promulgate and adopt at Olympia, Washington, the annexed rules relating to security of personal identification number (PIN), new section WAC 192-18-012.

I, Ernest F. LaPalm, 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 applications are now being taken for participation in the electronic benefit distribution system pilot project. While the project will not start paying benefits until August, the application process uses the personal identification number and this rule is necessary to protect its security. This rule is necessary for the protection of personal identification numbers used to access the electronic benefits distribution system pilot project which will begin accepting claims and paying benefits in August 1988. The emergency rule is necessary because applications for the program, including applications for personal identification numbers are now being taken in the pilot offices.

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 Employment Security Department as authorized in RCW 50.12.010 and 51.12.040

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 June 15, 1988.

By Ernest F. LaPalm
 Deputy Commissioner

NEW SECTION

WAC 192-18-012 SECURITY OF PERSONAL IDENTIFICATION NUMBER (PIN). No employee of the employment security department shall request, access, or attempt to access the personal identification number (PIN), issued in conjunction with the electronic benefit distribution system, of any person who files for or claims unemployment insurance benefits. An employee must immediately report such situations to his or her supervisor and advise the claimant to change his or her PIN code in the following cases:

- (1) If an employee inadvertently hears or has knowledge of a claimant's PIN; or
- (2) If an employee is aware of another employment security department employee who has knowledge, directly or indirectly, of a claimant's PIN. Violation of this section shall subject the offending employee to immediate dismissal or other disciplinary action.

WSR 88-13-074
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 88-33—Filed June 16, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 regulation allows an official NOAA gear test, using a vessel inappropriate for use in Puget Sound waters.

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

This rule is promulgated pursuant to RCW 75.08.080 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 June 15, 1988.

By Joseph R. Blum
 Director

NEW SECTION

WAC 220-20-01000L GENERAL PROVISIONS—GEAR TESTING AREAS. Notwithstanding the provisions of WAC 220-20-010, effective June 20 through June 24, 1988, it is lawful for the National Oceanographic and Atmospheric Administration to test a skiff-drawn trawl net in Lake Washington provided that:

- (1) The skiff is clearly marked "NOAA Test Fishery."
- (2) The codend of the net remains open at all times, and any fish inadvertently entangled in the mesh of the net be immediately returned to the water.

WSR 88-13-075
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
 [Filed June 16, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Finance—University of Washington transition school and early entrance program allocations, chapter 392-120 WAC;

that the agency will at 9:00 a.m., Friday, August 12, 1988, in the SPI, Old Capitol Building, Bruno Conference Room, Olympia, 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 28A.58.217.

Dated: June 16, 1988
 By: Frank B. Brouillet
 Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-120 WAC.

Rule Section(s): WAC 392-120-001, 392-120-005, 392-120-010, 392-120-015, 392-120-020 and 392-120-025.

Statutory Authority: RCW 28A.58.217.

Purpose of the Rule(s): To define policies and procedures relating to the allocation of state and federal moneys to the University of Washington transition school and early entrance program.

Summary of the New Rule(s) and/or Amendments: The Superintendent of Public Instruction will allocate state and federal moneys to the University of Washington transition school and early entrance program when authorized by any school district.

Reasons Which Support the Proposed Action(s): Rules are required to implement section 222, chapter 518, Laws of 1987.

Section Analysis: WAC 392-120-001 states authority for the rules; 392-120-005 states the purpose of the rules; 392-120-010 defines "University of Washington transition school and early entrance program"; 392-120-015 defines "University of Washington transition

school and early entrance program agreement"; 392-120-020 provides for school district authorization of reallocation of moneys to University of Washington transition school and early entrance program; and 392-120-025 provides for transmission of moneys to the University of Washington.

Persons or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298, Implementation: Perry Keithley, SPI, Financial Services, 3-6742; and Enforcement: Dr. Charles Marshall, SPI, Deputy Superintendent, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 392-120 WAC

FINANCE—UNIVERSITY OF WASHINGTON TRANSITION SCHOOL AND EARLY ENTRANCE PROGRAM ALLOCATIONS

WAC	
392-120-001	Authority.
392-120-005	Purpose.
392-120-010	Definition—University of Washington transition school and early entrance program.
392-120-015	Definition—Approved University of Washington transition school and early entrance program agreement.
392-120-020	School district authorization of reallocation of moneys to University of Washington transition school and early entrance program.
392-120-025	Transmission of moneys to the University of Washington.

NEW SECTION

WAC 392-120-001 AUTHORITY. The authority for this chapter is RCW 28A.58.217 which authorizes the superintendent of public instruction to adopt rules relating to the allocation of any state and federal moneys for students attending a University of Washington transition school and early entrance program.

NEW SECTION

WAC 392-120-005 PURPOSE. The purpose of this chapter is to set forth policies and procedures relating to the allocation of state and federal moneys to the University of Washington for eligible academically highly capable students attending a University of Washington transition school and early entrance program.

NEW SECTION

WAC 392-120-010 DEFINITION—UNIVERSITY OF WASHINGTON TRANSITION SCHOOL AND EARLY ENTRANCE PROGRAM. As used in this chapter, "University of Washington transition school and early entrance program" means a program operated by the University of Washington for the education of academically highly capable students who are performing at least at high school level.

NEW SECTION

WAC 392-120-015 DEFINITION—APPROVED UNIVERSITY OF WASHINGTON TRANSITION SCHOOL AND EARLY ENTRANCE PROGRAM AGREEMENT. As used in this chapter,

"approved University of Washington transition school and early entrance program agreement" means an agreement between a school district and the University of Washington for a school year which meets the requirements for joint or cooperative action pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

NEW SECTION

WAC 392-120-020 SCHOOL DISTRICT AUTHORIZATION OF REALLOCATION OF MONEYS TO UNIVERSITY OF WASHINGTON TRANSITION SCHOOL AND EARLY ENTRANCE PROGRAM. A school district meeting the following conditions may authorize the superintendent of public instruction to allocate directly to the University of Washington all or a portion of the state basic education, state categorical, and federal moneys generated by each resident student attending the University of Washington transition school and early entrance program:

(1) The school district shall enter into an agreement with the University of Washington pursuant to WAC 392-120-015. The agreement shall contain the following provisions:

- (a) Timely enrollment reports to the school district by the University of Washington transition school and early entrance program;
- (b) Assurance by the parties of compliance with the provisions of RCW 28A.58.217; and
- (c) Any other information the school district and the University of Washington deem appropriate.

(2) The school district shall report any student(s) enrolled in the University of Washington transition school and early entrance program on the regular monthly enrollment report P-223 to the superintendent of public instruction in the same manner as other enrolled students are reported.

(3) The school district shall submit to the superintendent of public instruction a written authorization for reallocation of moneys which shall:

- (a) Indicate the dollar amount(s) and source(s) of the amount(s) to be allocated to the University of Washington by the superintendent of public instruction; and
- (b) Include a statement assuring the superintendent of public instruction that the school district has entered into an agreement with the University of Washington transition school and early entrance program pursuant to WAC 392-120-015 and subsection (1) of this section.

NEW SECTION

WAC 392-120-025 TRANSMISSION OF MONEYS TO THE UNIVERSITY OF WASHINGTON. When so authorized pursuant to WAC 392-120-020(3) by any school district, the superintendent of public instruction shall transmit moneys on a quarterly basis to the University of Washington.

WSR 88-13-076

NOTICE OF PUBLIC MEETINGS
SEATTLE-KING COUNTY
DEPARTMENT OF PUBLIC HEALTH
(Redmond, Issaquah and South King County
Ground Water Advisory Sub-Committees)

[Memorandum—June 14, 1988]

Redmond Ground Water Advisory Sub-Committee

The policy sub-committee shall meet regularly on the 2nd Monday of each month beginning at 6:30 p.m. at Redmond City Council Chambers.

The technical sub-committee shall meet regularly on the 2nd Monday of each month beginning at 6:30 p.m. at Redmond City Council Chambers.

Issaquah Ground Water Advisory Sub-Committee

The policy sub-committee shall meet regularly on the first Thursday of each month beginning at 3:30 p.m. in the Issaquah Public Library, or other location as noted in the agenda for the next meeting, when a scheduled GWAC meeting is to be held. The committee shall meet at 4:00 p.m. when there is not GWAC meeting scheduled.

The technical sub-committee shall meet regularly on the fourth Thursday of each month beginning at 4:00 p.m. in the Issaquah Public Library or other location as noted in the agenda for the next meeting.

South King County Ground Water Advisory Sub-Committee

The public involvement sub-committee shall meet regularly on the second Wednesday of each month beginning at 3:00 p.m. at the Federal Way Water and Sewer District office.

The policy sub-committee shall meet regularly on the second Wednesday of each month beginning at 6:00 p.m. at Federal Way Water and Sewer District office.

The technical sub-committee shall meet regularly on the fourth Wednesday of each month beginning at 6:30 p.m. at the City of Kent Engineer Building.

**WSR 88-13-077
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—June 16, 1988]**

Monday, June 20, 1988
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 88-13-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 16, 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 depreciation base, amending WAC 388-96-559;

that the agency will at 10:00 a.m., Tuesday, July 26, 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 July 27, 1988.

The authority under which these rules are proposed is RCW 74.46.800.

The specific statute these rules are intended to implement is chapter 74.46 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12, 1988. The meeting site is in a location which is barrier free.

Dated: June 15, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 388-96 WAC, Nursing home accounting and reimbursement system.

Purpose of the Rule Change: To implement SSB 6437 and ESB 6519 passed into law during the 1988 legislative session. These bills amend RCW 74.46.360 which addresses property reimbursement of nursing homes.

Rule Changes are Generally Necessary: To comply with the provisions of chapter 74.46 RCW.

Statutory Authority: RCW 74.09.120 and 74.46.800.

Summary of the Rule Changes: WAC 388-96-559 implements provisions of SSB 6437 and ESB 6519; specifies reimbursement of grandfathered leased facilities if lessee purchases facility; specifies reimbursement of facility purchased after July 18, 1984, with a written agreement dated prior to August 1, 1984; clarifies that depreciation accumulated under any contractor during ownership of the assets by the lessor or contractor will be used in establishing the depreciation base for reimbursement purposes; and clarifies and integrates various provisions already in the regulation.

Person Responsible for Drafting, Implementing and Enforcing These Changes: Kathy Marshall, Manager of the Residential Rates Program, Aging and Adult Services Administration, Department of Social and Health Services, mailstop HB-11, (206) 753-5817, 234-5817 scan.

These rules are necessary to comply with the legislation referenced above and are not necessary as a result of federal or state court decisions.

Emergency adoption of the changes is sought by the department for the following reasons: The rule change reflect legislative amendments to RCW 74.46.360 contained in chapters 208 and 222, Laws of 1988. Each chapter is effective June 9, 1988; the legislative changes affect Medicaid provider rates which are re-set annually each July 1. Because the legislative changes will become

law effective June 9, 1988, the department finds the legislature intended the changes to apply to July 1, 1988, rates; the bills were not signed by the governor until March 23, 1988, and regular adoption of the rule changes begun subsequent to this date will not allow them to take effect until after July 1, 1988; emergency adoption of the rule changes will permit them to take effect on or before July 1, 1988, and will permit application of the legislative changes to July 1, 1988, rates as intended by the legislature; the department further finds that adoption of the rule changes by July 1, 1988, will avoid a significant loss of state and federal Medicaid program funds from July 1, 1988, through June 30, 1989; for the above reasons, the department finds that emergency adoption is necessary for the preservation of the public's general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest; the department, however, is pursuing permanent adoption of the changes, as well, which will provide notice and opportunity for the public and Medicaid contractors to register objections, suggestions or other comments prior to permanent adoption; and the above described amendments are expected to have no significant financial impact in cost compliance to nursing homes whether classified as small businesses or not and, therefore, a small business impact statement is not required.

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-559 DEPRECIATION BASE. (1) Effective January 1, 1985, the total depreciation base shall be the lowest of:

(a) The contractor's appraisal, if any(;;);
 (b) The department's appraisal obtained through the department of general administration of the state of Washington, if any(;;); or
 (c) The historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation incurred during periods the assets have been used in or as a facility by ((the) any contractor(;;)). Such accumulated depreciation is to be measured in accordance with subsection ((4)) (5) of this section and WAC 388-96-561, 388-96-565, and 388-96-567. ((If the department challenges the historical cost of an asset or if the contractor cannot or will not provide the historical cost of a leased asset, the department will have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington. The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal. For leased assets, the department may examine documentation in its files to determine the lessor's acquisition date at the time of the last arm's-length transaction. If the department is unable to determine the lessor's acquisition date by review of its records, the department may use the construction date of the facility, as found in the state fire marshal's records, as the lessor's acquisition date of leased assets in determining fair market value. When the appraisals are conducted, the depreciation base of the asset will not exceed the fair market value of the asset.)) Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) ((Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."): Un- less otherwise provided or limited by this chapter or by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program;
 or

(b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for Medicaid cost reimbursement purposes.

No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) ((Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."): The department may have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington if:

(a) The department challenges the historical cost of an asset; or
 (b) The contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source.

The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

If an appraisal is conducted, the depreciation base of the asset will not exceed the fair market value of the asset. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

(4) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or
 (b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(5) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

((5)) (6) If a contractor cannot or will not provide the lessor's purchase acquisition cost of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, by the department using the Marshall and Swift Valuation Guide to reflect the value at the lessor's acquisition date. If an appraisal has been prepared for leased assets and the assets subsequently sell in the first arm's-length transaction since January 1, 1980, pursuant to subsection ((7)) (8) of this section, the Marshall and Swift Valuation Guide will be used to adjust, if necessary, the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the Marshall and Swift Valuation Guide publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the Western District Index calculated by Marshall and Swift shall be used.

((6)) (7) If depreciable assets are acquired by purchase which were used in the ((Medicaid)) medical care program on or after January 1, 1980, the depreciation base of such assets shall not exceed the net book value existing at the time of such acquisition or which would have existed had the assets continued in use under the previous Medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not used in the medical care program or were not in use in or as a nursing care facility.

((7)) (8)(a) Subsection ((6)) (7) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs at least ten years after the previous arm's-length transfer of ownership nor shall subsection ((6)) (7) of this section apply to the first arm's-length purchase acquisition of assets occurring on or after January 1, 1980, for facilities participating in the Medicaid program prior to January 1, 1980. The depreciation base for such acquisitions shall not exceed the lesser of the fair market value as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration ((and)) or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and pursuant to RCW 74.46.840, this subsection is inoperative for any transfer of ownership of any asset occurring on or after July 18, 1984, leaving subsection ~~((6))~~ (7) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (8)(b) and (9) of this section.

~~((8))~~ (b) Subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under Medicaid cost reimbursement on an owner-operated basis or as a related party lease; or

(ii) Pursuant to written purchase and sale agreements dated prior to August 1, 1984, which are documented and submitted to the department prior to January 1, 1988.

(9)(a) In the case of assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (8) of this section apply to the purchase; or

(ii) Reimbursement for property and return on investment continue to be calculated pursuant to the provisions contained in RCW 74.46.530 (1)(e) and (f) and WAC 388-96-754(5). Reimbursement shall be based upon provisions of the lease in existence on the date of the purchase.

(b) The lessee/contractor may select the option in subsection (9)(a)(ii) of this section only if the purchase date meets one of the following criteria:

(i) The purchase date is after the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) The purchase date is within one year of the lease expiration or renewal date contained in the lease;

(iii) The purchase date is after a rate setting for the facility in which the reimbursement rate set, pursuant to this chapter and pursuant to chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) The purchase date is within one year of any purchase option in existence on January 1, 1988.

(10) For purposes of establishing the property and return on investment component rates, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a data base. The estimated value may be adjusted using the Marshall and Swift Valuation Guide to reflect the value of the asset at the lessor's purchase acquisition date.

WSR 88-13-079
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2634—Filed June 16, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to depreciation base, amending WAC 388-96-559.

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 is necessary to implement the requirements of chapters 208 and 221, Laws of 1988, to set nursing home rates effective July 1, 1988. The state

could lose federal participation in the increased rates if not adopted by July 1.

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

This rule is promulgated pursuant to chapters 208 and 221, Laws of 1988, 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 June 15, 1988.

By Leslie F. James, Director
Administration Services

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-559 DEPRECIATION BASE. (1) Effective January 1, 1985, the total depreciation base shall be the lowest of:

(a) The contractor's appraisal, if any((:));

(b) The department's appraisal obtained through the department of general administration of the state of Washington, if any((:)); or

(c) The historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation incurred during periods the assets have been used in or as a facility by ((the)) any contractor((:)). Such accumulated depreciation is to be measured in accordance with subsection ~~((4))~~ (5) of this section and WAC 388-96-561, 388-96-565, and 388-96-567. ~~((If the department challenges the historical cost of an asset or if the contractor cannot or will not provide the historical cost of a leased asset, the department will have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington. The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal. For leased assets, the department may examine documentation in its files to determine the lessor's acquisition date at the time of the last arm's-length transaction. If the department is unable to determine the lessor's acquisition date by review of its records, the department may use the construction date of the facility, as found in the state fire marshal's records, as the lessor's acquisition date of leased assets in determining fair market value. When the appraisals are conducted, the depreciation base of the asset will not exceed the fair market value of the asset.))~~ Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) ~~((Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."))~~ Unless otherwise provided or limited by this chapter or

by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program; or

(b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for Medicaid cost reimbursement purposes.

No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) ((Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization.") The department may have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington if:

(a) The department challenges the historical cost of an asset; or

(b) The contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source.

The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

If an appraisal is conducted, the depreciation base of the asset will not exceed the fair market value of the asset. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

(4) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or

(b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(5) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

((5)) (6) If a contractor cannot or will not provide the lessor's purchase acquisition cost of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, by the department using the Marshall and Swift Valuation Guide to reflect the value at the lessor's acquisition date. If an

appraisal has been prepared for leased assets and the assets subsequently sell in the first arm's-length transaction since January 1, 1980, pursuant to subsection ((7)) (8) of this section, the Marshall and Swift Valuation Guide will be used to adjust, if necessary, the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the Marshall and Swift Valuation Guide publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the Western District Index calculated by Marshall and Swift shall be used.

((6)) (7) If depreciable assets are acquired by purchase which were used in the ((Medicaid)) medical care program on or after January 1, 1980, the depreciation base of such assets shall not exceed the net book value existing at the time of such acquisition or which would have existed had the assets continued in use under the previous Medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not used in the medical care program or were not in use in or as a nursing care facility.

((7)) (8)(a) Subsection ((6)) (7) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs at least ten years after the previous arm's-length transfer of ownership nor shall subsection ((6)) (7) of this section apply to the first arm's-length purchase acquisition of assets occurring on or after January 1, 1980, for facilities participating in the Medicaid program prior to January 1, 1980. The depreciation base for such acquisitions shall not exceed the lesser of the fair market value as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration ((and)) or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious. Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and pursuant to RCW 74.46.840, this subsection is inoperative for any transfer of ownership of any asset occurring on or after July 18, 1984, leaving subsection ((6)) (7) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (8)(b) and (9) of this section.

((8)) (b) Subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under Medicaid cost reimbursement on an owner-operated basis or as a related party lease; or

(ii) Pursuant to written purchase and sale agreements dated prior to August 1, 1984, which are documented and submitted to the department prior to January 1, 1988.

(9)(a) In the case of assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (8) of this section apply to the purchase, or

(ii) Reimbursement for property and return on investment continue to be calculated pursuant to the provisions contained in RCW 74.46.530 (1)(e) and (f) and WAC 388-96-754(5). Reimbursement shall be based upon provisions of the lease in existence on the date of the purchase.

(b) The lessee/contractor may select the option in subsection (9)(a)(ii) of this section only if the purchase date meets one of the following criteria:

(i) The purchase date is after the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) The purchase date is within one year of the lease expiration or renewal date contained in the lease;

(iii) The purchase date is after a rate setting for the facility in which the reimbursement rate set, pursuant to this chapter and pursuant to chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease, or

(iv) The purchase date is within one year of any purchase option in existence on January 1, 1988.

(10) For purposes of establishing the property and return on investment component rates, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a data base. The estimated value may be adjusted using the Marshall and Swift Valuation Guide to reflect the value of the asset at the lessor's purchase acquisition date.

WSR 88-13-080

ADOPTED RULES

BOARD OF HEALTH

[Order 312—Filed June 16, 1988]

Be it resolved by the Washington State Board of Health, acting at West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to handling and care of human remains, WAC 248-40-040 and 248-40-050.

This action is taken pursuant to Notice No. WSR 88-10-044 filed with the code reviser on May 4, 1988. 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 43.20.050 (2)(e) 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 June 8, 1988.

By John A. Beare, M.D., M.P.H.
Secretary

AMENDATORY SECTION (Amending Order 300, filed 6/19/86)

WAC 248-40-040 (~~(FUNERALS,)~~) HANDLING AND CARE OF ((BODIES, AND BURIAL)) HUMAN REMAINS. (1) Definitions applicable to WAC 248-40-040 and 248-40-050.

(a) "Barrier precaution" means protective attire or equipment or other physical barriers worn to protect or prevent exposure of skin and mucous membranes of the wearer to infected or potentially infected blood, tissue, and body fluids.

(b) "Burial transit permit" means a form, approved and supplied by the state registrar of vital statistics ((pursuant to)) as described in chapter 43.20A RCW, identifying the name of the deceased, date and place of death, general information, disposition and registrar and sexton information.

~~((b))~~ (c) "Common carrier" means any person transporting property for the general public for compensation as defined in chapter 81.80 RCW.

~~((c))~~ (d) "Department" means the Washington state department of social and health services.

(e) "Embalmer" means a person licensed ((pursuant to)) as required in chapter 18.39 RCW and engaged in the profession or business of disinfecting, preserving, or preparing dead human bodies for disposal or transportation.

~~((d))~~ (f) "Funeral director" means a person licensed as required in chapter 18.39 RCW and engaged in the profession or business of conducting funerals and supervising or directing the burials and disposal of human remains.

(g) "Health care facility" means any facility or institution licensed under:

(i) Chapter 18.20 RCW, boarding homes;

(ii) Chapter 18.46 RCW, maternity homes;

(iii) Chapter 18.51 RCW, nursing homes;

(iv) Chapter 70.41 RCW, hospitals; or

(v) Chapter 71.12 RCW, private establishments, or clinics, or other settings where one or more health care providers practice.

(h) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care including persons licensed in Washington state under Title 18 RCW to practice medicine, podiatry, chiropractic, optometry, osteopathy, nursing, midwifery, dentistry, physician assistant, and military personnel providing health care within Washington state regardless of licensure.

(i) "Local registrar of vital statistics" means the health officer or administrator who registers certificates of birth and death occurring in his or her designated registration district as defined in chapter 70.58 RCW.

(2) ~~((Individuals who have died of a reportable disease or condition, as described in chapter 248-100 WAC, shall be reported to the local health officer pursuant to chapter 248-100 WAC))~~ Funeral directors, medical examiners, coroners, health care providers, and

their employees directly handling or touching human remains shall:

(a) Wash hands and other exposed skin surfaces with soap and water or equivalent immediately and thoroughly after contact with human remains, blood, or body fluids;

(b) Use barrier precautions whenever a procedure involves potential contact with blood, body fluids, or tissues of the deceased;

(c) Not eat, drink, or smoke in areas where handling of human remains or body fluids take place;

(d) Wash hands immediately after gloves are removed;

(e) Take precautions to prevent injuries by needles, scalpels, instruments, and equipment during use, cleaning, and disposal;

(f) Properly disinfect or discard protective garments and gloves immediately after use;

(g) Properly disinfect all surfaces, instruments, and equipment used if in contact with human remains, blood, or body fluids;

(h) Provide appropriate disposal of body fluids, blood, tissues, and wastes including:

(i) Equipping autopsy rooms, morgues, holding rooms, preparation rooms, and other places with impervious containers;

(ii) Lining containers with impervious, disposable material;

(iii) Equipping disposal containers with tightly fitting closures;

(iv) Destroying contents of disposal containers by methods approved by local ordinances and requirements related to disposal of infectious wastes;

(v) Immediately disposing of all fluids removed from bodies into a sewage system approved by the local health jurisdiction or by the department; and

(vi) Disinfecting immediately after use all containers and cans used to receive solid or fluid material taken from human remains.

(3) ((Bodies of persons who have died of cholera or plague shall be properly embalmed or cremated. If embalmed, a licensed embalmer shall prepare such bodies in the following manner:

(a) The body shall be thoroughly embalmed with a suitably effective disinfectant solution.

(b) If the body is prepared for burial at the place of death, the rooms used for the preparation shall be thoroughly aired and cleaned.

(c) In lieu of preparing for burial at the place of death, a body may be wrapped completely in a sheet soaked with an effective disinfectant and removed to the embalmer's place of business for the process of embalming)) Health care facilities, health care providers, medical examiners, coroners, and their employees shall place human remains in a lightweight, heat-sealed, zippered, disposable body pouch of at least four mils to prevent leakage.

(4) ((The embalmer and anyone assisting in preparation of a dead body shall wear an outer garment and rubber gloves while handling the body during preparation. These shall be removed before coming into contact

with other persons after preparation has been completed and shall be properly disinfected immediately thereafter.

(5) All instruments and equipment used in the preparation of a body shall be properly disinfected immediately after use)) Funeral directors, embalmers, and others assisting in preparation of human remains shall refrigerate or embalm the remains within twenty-four hours of receipt. If remains are refrigerated, they shall remain so until final disposition or transport as permitted under WAC 248-40-050.

((6) Disposal of wastes:

(a) Preparation rooms or other places used for embalming or preparing a dead body for disposition shall be equipped with a liquid impervious disposal container.

(b) Disposal containers shall be lined with liquid impervious, disposable material.

(c) Disposal containers shall be equipped with tightly fitting closures.

(d) The contents of disposal containers shall be destroyed by incineration or by other methods approved by local ordinances and requirements related to disposal of infectious wastes.

(e) All containers or cans used in receiving solid or fluid matter taken from a dead human body shall be disinfected immediately after use.

(f) In case of death by communicable disease, as defined in chapter 248-100 WAC, fluids removed from said body shall be mixed immediately with equal parts of an effective disinfectant solution. Said solution shall be held a minimum of three hours prior to disposition including release into any drain, sewer, or other public or private disposal system)) (5) Persons responsible for transfer or transport of human remains shall clean and disinfect equipment and the vehicle if body fluids are present and as necessary.

((7) All ambulances, hearses, first call cars, equipment therein, and transfer cases shall be kept clean, sanitary, and free from deleterious odors at all times. Such ambulances, hearses, cars, equipment, and transfer cases thereof shall be sanitized with a suitable disinfectant solution immediately following transport of a human body dead of a communicable disease.

(8) All dead human bodies to be disposed of by earth burial in the state of Washington shall be buried in the ground at least three feet (top of casket to surface of ground)) (6) Persons disposing of human remains in Washington state shall comply with requirements under chapter 68.50 RCW.

AMENDATORY SECTION (Amending Order 300, filed 6/19/86)

WAC 248-40-050 TRANSPORTATION OF HUMAN REMAINS. (1) Persons handling human remains shall:

(a) Use effective hygienic measures consistent with handling potentially infectious material;

(b) Obtain and use a burial-transit permit ((shall be required and used)) from the local health officer or local registrar of vital statistics when transporting human remains by common carrier((The permit shall be obtained from the local health officer or the local registrar of vital statistics, enclosed));

(c) Enclose the burial-transit permit in a ((strong)) sturdy envelope(;;); and ((attached))

(d) Attach the permit to the shipping case.

(2) ~~((When human remains are to be transported by common carrier, the casket or transfer case shall be encased in an outer box constructed of substantial material, securely constructed, and tightly closed. No human remains shall be transported pending final disposition more than twenty-four hours after the receipt of said remains unless))~~ Prior to transporting human remains by common carrier, persons responsible for preparing and handling the remains shall:

(a) Enclose the casket or transfer case in a tightly closed, securely constructed outer box;

(b) Transport human remains pending final disposition more than twenty-four hours after receipt of human remains by the funeral director only if:

~~((a))~~ (i) The remains are thoroughly embalmed, or

~~((b))~~ (ii) The ~~((following conditions))~~ remains are ~~((satisfied))~~ prepared by:

~~((i))~~ (A) Packing orifices ~~((shall be packed))~~ with a material saturated with a topical preservative;

~~((ii))~~ (B) Wrapping the remains ~~((shall be wrapped))~~ in absorbent material approximately one inch thick ~~((which has been))~~ and saturated with a preservative or ~~((the remains shall be))~~ coating the remains with heavy viscosity preservative gel;

~~((iii))~~ (C) Placing the remains ~~((shall be placed))~~ in a ~~((light-weight))~~ lightweight, disposable burial pouch; and

~~((iv))~~ (D) Placing the disposable burial pouch ~~((shall be placed))~~ inside a heavy canvas rubberized pouch ~~((which is))~~ and appropriately ~~((sealed))~~ sealing along the zippered area with a substance such as collodion.

(3) Persons responsible for human remains routed to the point of final destination on a burial-transit permit ~~((may be held temporarily))~~ shall:

(a) Allow temporary holding of remains at a stopover point within the state of Washington for funeral or ~~((for any))~~ other purposes without ~~((any))~~ an additional permit; and

(b) Surrender the burial-transit permit to the sexton or crematory official at the point of interment or cremation.

(4) Sextons and cremation officials shall accept the burial-transit permit ~~((shall be accepted))~~ as authority for interment or cremation anywhere within the state of Washington ~~((by sexton or crematory official and shall be surrendered to them by the person in charge of the remains at the point of interment or cremation)).~~

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: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-13-081

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 17, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning blueberry quarantine in chapter 16-488 WAC;

that the agency will at 9:30 a.m., Wednesday, July 27, 1988, in the G.A. Building, Agriculture Conference Room, 406 General Administration Building, AX-41, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 5, 1988.

The authority under which these rules are proposed is chapter 17.24 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Dated: June 17, 1988

By: Art G. Losey

Assistant Director

STATEMENT OF PURPOSE

WAC 16-488-025.

Description of Purpose: To prevent the introduction or movement of pests into Washington state.

Statutory Authority: Chapter 17.24 RCW.

Summary of Rules: These rules establish requirements for certification and the movement of fresh fruit of blueberries into Washington state in order to prevent the introduction or movement of blueberry maggot a serious pest of blueberries.

Reasons for Supporting Proposed Action: Research has shown blueberry maggot can be controlled by fumigation of fresh blueberry fruit with methyl bromide. This action would allow fresh blueberry fruit from quarantined states that are fumigated to be shipped into the state.

Agency Personnel Responsible for Drafting, Implementing and Enforcing These Rules: Robert O. Rebhan, Plant Services Supervisor, Chemical and Plant Division, 406 General Administration Building, AX-41, Olympia, WA 98504, phone (206) 586-5306.

Persons Proposing Rules: Washington State Department of Agriculture.

Agency Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1906, filed 9/5/86)

WAC 16-488-025 BLUEBERRY QUARANTINE EXEMPTIONS. Fresh fruit of blueberry may be moved or shipped from quarantined areas into Washington state under the following conditions:

(1) No restrictions are placed by this section on the entry into this state of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state.

(2) Commodities covered which are held in cold storage for a continuous period of forty days or more, during which period the temperature within the storage room is maintained at thirty-two degrees

fahrenheit or less, may be admitted: PROVIDED, That a lot or shipment is accompanied by a certificate issued by an official governmental agency from the state of origin evidencing compliance with the minimum requirements of this section.

(3) Each shipment of blueberries that have been fumigated with methylbromide at atmospheric pressure by one of the following schedules may be permitted entry into Washington state: PROVIDED, That residues on fresh fruit of blueberries do not exceed the Federal Food and Drug Administration's allowable tolerances.

32 g/m³ (2 lbs./1,000 ft.³) for 2 hours at 27.7°C (82°F) or above;

or
32 g/m³ (2 lbs./1,000 ft.³) for 2 1/2 hours at 22.2°C - 27.2°C (72°F-81°F); or

32 g/m³ (2 lbs./1,000 ft.³) for 3 hours at 16.6°C - 21.6°C (62°F-71°F); or

32 g/m³ (2 lbs./1,000 ft.³) for 3 1/2 hours at 10°C - 16.1°C (50°F-61°F).

(a) The fumigation shall be done by applicators who are registered or certified in fumigation pest control in the state of origin;

(b) Each fumigation shall be monitored and supervised by an authorized representative of the origin state department of agriculture;

(c) Each shipment of blueberries shall be accompanied by a phytosanitary certificate issued by an authorized representative of the origin state department of agriculture evidencing compliance with the fumigation requirements. The certificate shall state the number of cartons in the shipment and the name and address of the consignee; and

(d) All shipping containers (flats) shall be stamped or tagged indicating the fresh fruit of blueberries have undergone fumigation.

WSR 88-13-082

ADOPTED RULES

DEPARTMENT OF NATURAL RESOURCES

(Board of Natural Resources)

[Order 537, Resolution No. 585—Filed June 17, 1988]

Be it resolved by the Board of Natural Resources, acting at the John A. Cherberg Building, Olympia, Washington, that it does adopt the annexed rules relating to open water disposal sites, amending WAC 332-30-166, revising the fees charged for open water disposal of dredged materials needed to implement Phases I of Puget Sound dredged material disposal analysis (PSDDA).

This action is taken pursuant to Notice No. WSR 88-08-074 filed with the code reviser on April 6, 1988. 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 79.90.560 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 June 14, 1988.

By Brian J. Boyle
Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 451, Resolution No. 492, filed 7/16/85)

WAC 332-30-166 OPEN WATER DISPOSAL SITES. (1) Open water disposal sites are established primarily for the disposal of dredged material obtained

from marine or fresh waters. These sites are generally not available for disposal of material derived from upland or dryland excavation except when such materials would enhance the aquatic habitat.

(2) Material may be disposed of on state-owned aquatic land only at approved open water disposal sites and only after authorization has been obtained from the department. Applications for use of any area other than an established site shall be rejected. However, the applicant may appeal to the interagency open water disposal site evaluation committee for establishment of a new site.

(3) Application for use of an established site must be for dredged material that meets the approval of federal and state agencies and for which there is no practical alternative upland disposal site or beneficial use such as beach enhancement.

(4) The department will only issue authorization for use of the site after:

(a) The environmental protection agency and department of ecology notify the department that, in accordance with Sections 404 and 401, respectively, of the Federal Clean Water Act, the dredged materials are suitable for in-water disposal and do not appear to create a threat to human health, welfare, or the environment; and

(b) All necessary federal, state, and local permits are acquired.

(5) Any use authorization granted by the department shall be subject to the terms and conditions of any required federal, state, or local permits.

(6) The department shall suspend or terminate any authorization to use a site upon the expiration of any required permit.

(7) All leases for use of a designated site must require notification to DNR in Olympia twenty-four hours prior to each use. DNR Olympia must be notified five working days prior to the first use to permit an on-site visit to confirm with dump operator the site location.

(8) Pipeline disposal of material to an established disposal site will require special consideration.

(9) ~~((An application and a lease))~~ Fees will be charged at ~~((a))~~ rates sufficient to cover all departmental costs associated with management of the sites. Fees will be reviewed and adjusted annually or more often as needed. A penalty fee may be charged for unauthorized dumping or dumping beyond the lease site. Army Corps of Engineers navigation channel maintenance projects where there is no local sponsor are exempt from this fee schedule.

FEES

~~((a))~~ ~~((Application fee~~

~~((i)))~~ Puget Sound and Strait of Juan De Fuca: ~~(((\$15 per cubic yard (c.y.) for the first 200,000 c.y., Negotiated fee for project volumes exceeding 200,000 c.y., Minimum fee \$2,000.00~~

~~((ii)))~~ (i) Seattle, Tacoma, and Everett disposal sites \$0.40 per cubic yard (c.y.), \$2,000 minimum;

(ii) Other disposal sites \$0.15 per c.y. for the first 200,000 c.y., negotiated fee for project volumes exceeding 200,000 c.y., \$2,000 minimum.

(b) Grays Harbor/Willapa Harbor: Minimum fee \$300.00

((~~(b) Lease fee = \$100.00 all sites~~))

(c) ((~~Penalty~~)) Damage fee - \$5.00/cubic yard

(10) Open water disposal site selection. Sites are selected and managed by the department with the advice of the interagency open water disposal site evaluation committee (a technical committee of the aquatic resources advisory committee). The committee is composed of representatives of the state departments of ecology, fisheries, game, and natural resources as well as the Federal Army Corps of Engineers, National Marine Fisheries Service, Environmental Protection Agency, and Fish and Wildlife Service. The department chairs the committee. Meetings are irregular. The committee has developed a series of guidelines to be used in selecting disposal sites. The objectives of the site selection guidelines are to reduce damage to living resources known to utilize the area, and to minimize the disruption of normal human activity that is known to occur in the area. The guidelines are as follows:

(a) Select areas of common or usual natural characteristics. Avoid areas with uncommon or unusual characteristics.

(b) Select areas, where possible, of minimal dispersal of material rather than maximum widespread dispersal.

(c) Sites subject to high velocity currents will be limited to sandy or coarse material whenever feasible.

(d) When possible, use disposal sites that have substrate similar to the material being dumped.

(e) Select areas close to dredge sources to insure use of the sites.

(f) Protect known fish nursery, fishery harvest areas, fish migration routes, and aquaculture installations.

(g) Areas proposed for dredged material disposal may require an investigation of the biological and physical systems which exist in the area.

(h) Current velocity, particle size, bottom slope and method of disposal must be considered.

(i) Projects transporting dredged material by pipeline will require individual review.

(j) Placement of temporary site marking buoys may be required.

(k) The department will assure disposal occurs in accordance with permit conditions. Compliance measures may include, but are not limited to, visual or electronic surveillance, marking of sites with buoys, requiring submittal of operator reports and bottom sampling or inspection.

(l) Special consideration should be given to placing material at a site where it will enhance the habitat for living resources.

(m) Locate sites where surveillance is effective and can easily be found by tugboat operators.

(11) The department shall conduct such subtidal surveys as are necessary for siting and managing the disposal sites.

WSR 88-13-083

ATTORNEY GENERAL OPINION

Cite as: AGO 1988 No. 12

[June 8, 1988]

PUBLIC DISCLOSURE—PRIVACY—CONFIDENTIAL INCOME INFORMATION

1. When applying the statutory privacy standard in RCW 42.17.255, a public agency may inquire into the purpose for which a record is requested and may use the answer to aid in determining whether the public has a legitimate interest in obtaining the information, but the public agency may not decline to furnish the records for public inspection and copying solely because the requester refuses to furnish a reason for the request.
2. A public agency may condition access to a public record containing a list of individuals on the requester's promise that the record will not be used for a commercial purpose, but may not require the requester to enter into a hold harmless agreement to that effect.
3. The term "confidential income information" as used in RCW 84.40.020 refers to information that has been communicated in confidence in connection with the assessment of real property pursuant to chapter 84.40 RCW, which has not been publicly disseminated by the taxpayer or made known to more than a limited number of individuals, whose disclosure would either be highly offensive to a reasonable person and not of legitimate concern to the public or would result in unfair competitive disadvantage to the taxpayer.

Requested by:

Honorable James R. Miller
Lewis County Prosecuting Attorney
P.O. Box 918
Chehalis, WA 98532

WSR 88-13-084

ATTORNEY GENERAL OPINION

Cite as: AGO 1988 No. 13

[June 15, 1988]

SCHOOL DISTRICTS—BOND ISSUES—TAX LEVIES—EQUIPMENT PURCHASES

1. A school district may not impose a bond levy and issue negotiable bonds solely for the purpose of acquiring computers, other equipment, or furniture.
2. A school district may not impose a six-year levy of taxes under article 7, section 2, of the state constitution, solely for the purpose of acquiring computers, other equipment, or furniture.
3. A school district which undertakes a modernization project involving major structural changes may use six-year levy proceeds for the project and the

project may include the acquisition and installation of new and replacement equipment and furniture.

Requested by:

Honorable Daniel K. Grimm
 State Representative
 25th District
 P.O. Box 1046
 Puyallup, WA 98371

WSR 88-13-085
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
 [Order 88-16—Filed June 17, 1988]

I, Phillip Johnson, deputy director of the Department of Ecology, do promulgate and adopt at Olympia, Washington, the annexed rules relating to settlement agreement procedures under chapter 70.105B RCW, Hazardous waste cleanup.

I, Phillip Johnson, 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 these rules are identical to the emergency rules filed by the department on March 23, 1988, and published in the Washington State Register Issue 88-07. The effectiveness of those rules are extended by this filing through July 7, 1988. Chapter 173-340 WAC permanent rules on this subject shall take effect on July 8, 1988. Negotiations are currently underway at numerous sites across the state, and it is necessary that emergency rules be in effect to expedite the cleanups.

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

This rule is promulgated pursuant to chapter 70.105B RCW which directs that the Department of Ecology has authority to implement the provisions of the Hazardous Waste Cleanup Act, chapter 70.105B 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 June 17, 1988.

By Phillip C. Johnson
 Deputy Director

Chapter 173-340 WAC
HAZARDOUS WASTE CLEANUP SETTLEMENT PROCEDURES

WAC	
173-340-010	Purpose
173-340-020	Definitions
173-340-030	Emergency Actions
173-340-040	Settlement Procedures
173-340-050	State Conducted Remedial Action— Notice

NEW SECTION

WAC 173-340-010 PURPOSE. *These regulations implement RCW 70.105B.070 which requires that the department provide, by rule, procedures by which potentially liable persons may propose and negotiate voluntary remedial actions for releases or threatened releases of hazardous substances. These regulations provide for public notice and an opportunity to comment on proposed settlements and establish time periods for accomplishment of activities required by RCW 70.105B.070. These regulations are interim and will be amended by final regulations.*

NEW SECTION

WAC 173-340-020 DEFINITIONS. (1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or such person authorized to act for the director.

(3) "Final cleanup" means a remedial action which will achieve cleanup levels required by RCW 70.105B.060.

(4) "Potentially liable person" means any person whom the department finds, based upon credible evidence, to be liable under RCW 70.105B.040.

(5) "Remedial investigation/feasibility study" means (a) a remedial investigation to gather the data necessary and sufficient to: determine the nature and extent of a release or threatened release of a hazardous substance; establish target cleanup levels and monitoring methods; identify remedial action alternatives; and support the technical and cost analyses of the alternatives; and (b) a feasibility study which includes: an evaluation of the technical, environmental, and economic aspects of alternative remedial actions; a recommendation for the preferred remedial action; and cost estimates and a preliminary construction schedule for the remedial action.

(6) "Remedial design/remedial action implementation" means (a) an action where the selected remedy is clearly designed and/or specified in accordance with engineering criteria, for example, site action plan, relocation plan, or engineering drawings and specifications, in a bid package, enabling immediate implementation of the remedy; and (b) the implementation of a remedial action, normally following design, of the selected source control and/or off-site remedial measure. Remedial action implementation may include, but is not limited to, final cleanup.

NEW SECTION

WAC 173-340-030 EMERGENCY ACTIONS. (1) The provisions of this chapter shall not apply if the director determines that an emergency or imminent danger exists which requires immediate remedial action to protect human health or the environment.

(2) Nothing in this chapter shall be construed to limit the authority of the department, its employees, agents or contractors to take appropriate action in the event of an emergency or imminent danger to human health or the environment.

NEW SECTION

WAC 173-340-040 SETTLEMENT PROCEDURES. (1) General notice letters. The department may issue a general notice letter to potentially liable persons to inform them of their potential liability for remedial action costs at the site and natural resource damages. This notice may be used to begin or continue the process of information exchange, but it does not initiate the settlement procedures defined in this section.

(2) Special notice letters. When the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, and when the department is prepared to proceed with settlement procedures, it shall issue special notice letters to the potentially liable persons. Special notice letters shall be signed by the director and sent via certified mail, return receipt requested. The department shall not be required to issue special notice letters to potentially liable persons under this chapter if notice letters have been issued prior to the effective date of these regulations.

(3) Contents of special notice letters.

(a) Special notice letters shall inform the recipients that the department has identified them as potentially liable persons under chapter 70.105B RCW or other applicable laws regarding the release of hazardous substances. Such letters shall also notify the recipients that the department has determined that remedial action will be required to protect human health or the environment. Special notice letters shall specifically identify the site where a release or threatened release of hazardous substances has occurred, and will identify, to the extent known by the department, the nature of such hazardous substances. Special notice letters shall also list the elements of the scope of work for remedial action required at the site.

(b) Special notice letters shall require the potentially liable persons to submit, within 30 days of receipt, a written response to the department via certified mail. The written response shall include the following: (i) a statement indicating whether or not the potentially liable persons wish to proceed with the settlement procedures defined in this chapter and intend to submit a good faith offer for undertaking or financing remedial actions required at the site; and (ii) the name, address and phone number of a representative who is authorized to negotiate on the potentially liable persons' behalf.

(c) If (i) a potentially liable person fails to state in writing, within 30 days of receipt of the special notice letter, that it wishes to proceed with the settlement procedures and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(d) Special notice letters may include: (i) a list of all potentially liable persons identified by the department who are also receiving special notice letters concerning the site; and (ii) a draft consent decree.

(e) The department, in its sole discretion, may extend the deadline for response to the special notice letter and provide additional time as it deems appropriate.

(4) Good faith offers.

(a) The potentially liable persons shall submit a good faith offer to the department within 60 days of receipt of a special notice letter. The department, in its sole discretion, will determine whether or not the offer submitted constitutes a good faith offer. If the department determines that (i) a good faith offer has not been received in accordance with this subsection, and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(b) A good faith offer shall consist of: (i) a statement of willingness to conduct or finance a remedial action which is consistent with the elements of the scope of work and any draft consent decree accompanying the special notice letter; (ii) a response to each element of the scope of work accompanying the special notice letter; (iii) a paragraph by paragraph response to any draft consent decree accompanying the special notice letter; (iv) a demonstration of the potentially liable persons' technical capability to undertake the remedial action. This will require that the potentially liable persons identify whom they expect to conduct the remedial actions required or the process they will undertake to select a qualified firm; and (v) a demonstration of the potentially liable persons' capability to finance the remedial action required.

(c) If the department rejects the offer submitted under this subsection it shall notify the potentially liable persons who submitted the offer.

(d) The department, in its sole discretion, may extend the deadline for receipt of a good faith offer and provide such additional time as it deems appropriate.

(5) Negotiation period.

(a) Following the department's determination that it has received a good faith offer, the department shall negotiate with the potentially liable persons to reach a settlement agreement within a period not to exceed, (i) in the case of a remedial investigation/feasibility study, 90 days from the date of receipt of the special notice letter; and (ii) in the case of a remedial design/remedial action implementation, 120 days from the date of receipt of the special notice letter.

(b) The department, in its sole discretion, may extend the period of negotiation for such additional time as it deems appropriate.

(c) The department shall negotiate with the potentially liable persons to achieve reasonable deadlines for remedying releases or threatened releases at the site. The department shall ensure that cleanup levels required under RCW 70.105B.060 are attained.

(d) If (i) no settlement is reached within the time periods specified in subsections 5(a) and (b) of this section, and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the voluntary cleanup procedures and

proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(e) If the department determines that negotiations have reached an impasse, it may terminate the proceedings by issuing a notice to those potentially liable persons participating in the negotiations, via certified mail, return receipt requested. In such a case, the negotiation period shall end upon receipt of such a notice. If (i) the negotiation period is terminated and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(6) Final settlement offer procedures.

(a) This subsection applies only when the special notice letter has required final cleanup as defined in WAC 173-340-020(3).

(b) The potentially liable persons may submit a final settlement offer for final cleanup and any supporting material for consideration by the department. A final settlement offer must be received by the department no later than 10 days after (i) the potentially liable persons fail to state in writing that they wish to proceed with the settlement process in accordance with subsection (3)(b) of this section, (ii) a determination is made by the department that a good faith offer has not been received as required by subsection (4)(a) and (b) of this section, (iii) the negotiation period has expired in accordance with subsection (5)(a) and (b) of this section, or (iv) the negotiation period has been terminated in accordance with subsection (5)(e) of this section.

(c) Upon receipt of a final settlement offer provided for in this subsection, the department shall prepare a notice of receipt of a final settlement offer and its availability for public review and invite public comments. The notice shall be published, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(d) The department shall receive written comments on the final settlement offer for at least 30 days from the date of publication.

(e) If the department accepts the final settlement offer, it shall file it as a proposed consent decree in accordance with subsection (7) of this section.

(f) If the department rejects the final settlement offer, it shall state its reasons for rejection to the potentially liable persons via certified mail, return receipt requested.

(g) If the department does not receive a final offer as required by this subsection, the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(7) Consent decree procedures.

(a) Upon agreement between the department and the potentially liable persons for voluntary remedial action, a proposed consent decree shall be filed promptly with the appropriate superior court or the federal court having jurisdiction over the matter.

(b) Upon filing a proposed consent decree, the department shall prepare a public notice. Such notice shall inform the public that an agreement has been reached, state its availability for public review and invite public comments. This notice shall be placed, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(c) The department shall receive written comments for at least 30 days from the date on which the proposed consent decree was filed with the court. The department shall file with the court all written comments received within the public comment period.

(d) If the parties agree to substantial changes to the proposed consent decree, the department shall place a notice in, at a minimum, one newspaper of general circulation in the vicinity of the site. Such notice shall inform the public that an agreement has been reached which substantially differs from that previously subjected to public comment. It shall also state that the revised proposed consent decree is available for public review and invite public comment. Comments shall be received for at least 30 days and shall be filed by the department with the court.

NEW SECTION

WAC 173-340-050 STATE CONDUCTED REMEDIAL ACTION—NOTICE. (1) Upon determination by the department to conduct remedial action, the department may prepare a proposed scope of work as provided in RCW 70.105B.120 (7)(a).

(2) Upon preparation of a scope of work for state conducted remedial action, the department may publish a notice of its proposed scope of work, at a minimum, in one newspaper of general circulation in the vicinity of the site and indicate where the scope of work is available for review. Upon publication of such notice, comments shall be received for 30 days. Following receipt of comments, the department may revise the scope of work to include such comments or adopt its proposed scope of work as final.

WSR 88-13-086

**NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES
[Memorandum—June 15, 1988]**

The board of trustees of the Seattle Community College District has scheduled a special meeting for 12:00 p.m., Thursday, June 30, 1988, in the District Office Meeting Room, 1500 Harvard, Seattle, WA 98122.

WSR 88-13-087
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES
 [Memorandum—June 16, 1988]

The board of trustees of the Seattle Community College District has scheduled a special meeting for 4:00 p.m., Tuesday, June 28, 1988, in the District Office Meeting Room, 1500 Harvard, Seattle, WA 98122.

WSR 88-13-088
PROPOSED RULES
ATTORNEY GENERAL'S OFFICE
 [Filed June 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of the Attorney General intends to adopt, amend, or repeal rules concerning Arbitration requests—Forty day written request to replace or repurchase vehicle, WAC 44-10-035;

that the agency will at 10:00 a.m., Friday, August 5, 1988, in the Thirteenth Floor Conference Room, Dexter Horton Building, Seattle, 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 19.118.080 (2) and (7).

The specific statute these rules are intended to implement is RCW 19.118.041.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 2, 1988.

Dated: June 20, 1988
 By: Tad H. Shimazu
 Assistant Attorney General

STATEMENT OF PURPOSE

Name of Agency: Washington State Attorney General's Office.

Title: WAC 44-10-035 Arbitration requests—Forty day written request to replace or repurchase vehicle.

Description of Purpose: To clarify when a consumer may file a request for arbitration in relation to the timing of the forty day written request to replace or repurchase the vehicle.

Statutory Authority: RCW 19.118.080 (2) and (7).

Summary of Rule: WAC 44-10-035, the rule clarifies that a consumer may request an arbitration hearing anytime after sending a written request to the manufacturer to replace or repurchase the vehicle. The consumer need not wait for forty days before filing the request for arbitration. However, the hearing shall not be held until the manufacturer has been allowed forty days to comply with the request.

Responsible Personnel: In addition to the Attorney General, the following persons have knowledge of and responsibility for drafting, implementing and enforcing this rule: Sally Sterling, 1300 Dexter Horton Building, Seattle, WA 98104, (206) 464-4289 and Tad H.

Shimazu, Assistant Attorney General, 5th Floor Highway-Licenses, Olympia, WA 98504, (206) 753-2702.

Proponents: The Office of the Attorney General.

Federal Law or Federal or State Court Requirements: The proposed rule is not necessitated as the result of federal or state court action.

Small Business Economic Impact Statement: Not required.

NEW SECTION

WAC 44-10-035 ARBITRATION REQUESTS—FORTY DAY WRITTEN REQUEST TO REPLACE OR REPURCHASE VEHICLE. A consumer may file a request for arbitration any time after having sent to the manufacturer a written request to replace or repurchase the new motor vehicle pursuant to RCW 19.118.041(1). However, no arbitration hearing shall be conducted before the manufacturer has had forty (40) calendar days to comply with the consumer's written request.

WSR 88-13-089
ADOPTED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
 [Order 88-16—Filed June 20, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Special services program—Chapter 1 Migrant of the Education Consolidation and Improvement Act of 1981, financial assistance to state education agencies, chapter 392-164 WAC.

This action is taken pursuant to Notice No. WSR 88-07-113 filed with the code reviser on March 23, 1988. 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 28A.02.100 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 June 14, 1988.

By Frank B. Brouillet
 Superintendent of Public Instruction

Chapter 392-164 WAC
 ((GRANTS MANAGEMENT—ELEMENTARY
 AND SECONDARY EDUCATION ACT—TITLE I
 PROGRAM, MIGRANT)) SPECIAL SERVICES
 PROGRAM—CHAPTER 1 MIGRANT OF THE ED-
 UCATION CONSOLIDATION AND IMPROVE-
 MENT ACT OF 1981, FINANCIAL ASSISTANCE
 TO STATE EDUCATIONAL AGENCIES

NEW SECTION

WAC 392-164-100 AUTHORITY. The authority for this chapter is RCW 28A.02.100 which authorizes the superintendent of public instruction to receive federal funds on behalf of school districts of the state of

Washington and to disburse such funds in accordance with federal law and accompanying federal rules and regulations.

NEW SECTION

WAC 392-164-105 PURPOSE. The purpose of this chapter is to ensure compliance by the state of Washington with provisions governing financial assistance to local school districts and other subgrantee's of Chapter 1 Migrant of the Education Consolidation and Improvement Act of 1981 and accompanying federal rules and regulations, particularly 34 CFR Parts 201, 204 and 74.60-61 and Appendix G to part 74.

NEW SECTION

WAC 392-164-115 ACCOUNTABILITY. Nothing in this chapter shall be construed to relieve a local school district or other subgrantee of its responsibility to comply also with all applicable federal statutes, rules, and regulations.

NEW SECTION

WAC 392-164-120 CHAPTER 1 MIGRANT—DEFINITION. As used in this chapter, the term "Chapter 1 Migrant" means that part of Public Law 97-35 and subsequent amendments, commonly referred to as Chapter 1 of the Education Consolidation and Improvement Act of 1981, which provide financial assistance to state educational agencies to meet special educational needs of migratory children.

NEW SECTION

WAC 392-164-125 AGRICULTURAL ACTIVITY—DEFINITION. As used in this chapter, the term "agricultural activity" means any of the following:

- (1) Any activity directly related to the production or processing of crops, dairy products, poultry, or livestock for initial commercial sale or as a principal means of personal subsistence.
- (2) Any activity directly related to the cultivation or harvesting of trees.
- (3) Any activity directly related to fish farms.

NEW SECTION

WAC 392-164-130 FISHING ACTIVITY—DEFINITION. As used in this chapter, the term "fishing activity," means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or as a principal means of personal subsistence.

NEW SECTION

WAC 392-164-135 MIGRATORY AGRICULTURAL WORKER—DEFINITION. As used in this chapter, the term "migratory agricultural worker" means a person who has moved within the past twelve months from one school district to another to enable him or her to obtain temporary or seasonal employment in an agricultural activity.

NEW SECTION

WAC 392-164-140 MIGRATORY FISHER—DEFINITION. As used in this chapter, the term "migratory fisher" means a person who has moved within the past twelve months from one school district to another to enable him or her to obtain temporary or seasonal employment in a fishing activity.

NEW SECTION

WAC 392-164-145 CURRENTLY MIGRATORY CHILD—DEFINITION. As used in this chapter, the term "currently migratory child" means a child:

- (1) Whose parent or guardian is a migratory agricultural worker or a migratory fisher; and
- (2) Who has moved within the past twelve months from one school district to another to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity. This definition includes a child who has been eligible to be served under the requirements in the preceding sentence, and who, without the parent or guardian, has continued to migrate annually to enable him or her to secure temporary or seasonal employment in an agricultural or fishing activity.

NEW SECTION

WAC 392-164-150 FORMERLY MIGRATORY CHILD—DEFINITION. As used in this chapter, the term "formerly migratory child" means a child who:

- (1) Was eligible to be counted and served as a currently migratory child within the past five years regardless of whether or not such child actually received service as a migratory child, but is not now a currently migratory child;
- (2) Resides in the area served by the agency carrying out a Chapter 1 migrant education program or project; and
- (3) Has on file a certificate of eligibility revalidated yearly by the signature of his or her parent or guardian certifying such child as a formerly migratory child.

NEW SECTION

WAC 392-164-155 MIGRATORY CHILDREN—DEFINITION. As used in this chapter, the term "migratory children" means children who qualify under either the definition of "currently migratory child" or "formerly migratory child" defined in this chapter.

NEW SECTION

WAC 392-164-160 CHILDREN—DEFINITION. As used in this chapter, the term "children" means persons up to age twenty-one who are entitled to a free public education not above grade twelve and preschool children: PROVIDED, That a child who reaches the age of twenty-one during a school year in which such child is receiving migrant services shall be considered eligible for services until the end of the school year.

NEW SECTION

WAC 392-164-165 PRESCHOOL CHILDREN—DEFINITION. As used in this chapter, "preschool children" means children who are:

- (1) Below the age and grade level at which the state provides free public education; and
- (2) Of the age or grade level at which they can benefit from an organized instructional program provided in a school or instructional setting: PROVIDED, That such children shall not be younger than three years of age.

NEW SECTION

WAC 392-164-170 ELIGIBLE MIGRATORY CHILDREN—DEFINITION. As used in this chapter, the term "eligible migratory children" means migratory children determined to be eligible by a local school district or other subgrantee on the basis of credible information from any source, including that provided by the child or his or her parent or guardian: PROVIDED, That only those migratory children with a signed, validated certificate of eligibility on file with the school district shall be served in the migrant program.

NEW SECTION

WAC 392-164-175 GUARDIAN—DEFINITION. As used in this chapter, the term "guardian" means a person who:

- (1) Has been appointed to be the legal guardian of a child through formal proceedings in accordance with state law;
- (2) Would qualify as a legal guardian of a particular child under Washington state law if formal guardianship proceedings were undertaken; or
- (3) Is standing in the place of a parent to a child by virtue of the fact that, with apparent parental consent, the child resides with such person: PROVIDED, That if no objection has been filed to such residency, parental consent may be presumed.

NEW SECTION

WAC 392-164-180 OTHER SUBGRANTEE—DEFINITION. As used in this chapter, the term "other subgrantee" means the government, nonprofit, or other legal entity to which the state as grantee awards a subgrant, and which is accountable to the state for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

NEW SECTION

WAC 392-164-185 OBJECT OF EXPENDITURE—DEFINITION. As used in this chapter, the term "object of expenditure" means an article purchased or a service obtained, coded appropriately on the program budget matrix (FORM SPI F-1000B—CH. 1) and referred to for accounting purposes as the third field of uniform expenditure classification.

NEW SECTION

WAC 392-164-190 ACTIVITY—DEFINITION. As used in this chapter, the term "activity(ies)," when used in the context of budgeting provisions, means a specific line of work carried on by the school district or other subgrantee coded appropriately on the program budget matrix (FORM SPI F-1000B—CH. 1) and referred to for accounting purposes as the second field of uniform expenditure classification.

NEW SECTION

WAC 392-164-195 INDIRECT EXPENDITURE—DEFINITION. As used in this chapter, the term "indirect expenditure" means those expenditure elements that cannot be easily, obviously, and conveniently identified with specific programs and are allowable costs pursuant to 34 CFR 204.22 "Allowable costs," i.e., "project activities that:

- (1) Are designed to meet the special educational needs of the children eligible to be served . . . ;
 - (2) Are included in an approved application; and
 - (3) Comply with all requirements applicable to Chapter 1 programs.
- (b) The project activities may include applicable activities in section 555(c) of Chapter 1."

NEW SECTION

WAC 392-164-200 DIRECT EXPENDITURE—DEFINITION. As used in this chapter, the term "direct expenditure" means that part of program-allowed total expenditures that appear on the budget matrix under allowed combinations of activities and objects of expenditures.

NEW SECTION

WAC 392-164-205 DEFINITION—SERVICE MODEL. As used in this chapter, the term "service model" means the location, time and conditions characteristic of the method(s) chosen by a school district for delivery of Chapter 1 Migrant instructional and/or support services. Permissible models are those described in the annual application instructions.

NEW SECTION

WAC 392-164-210 SUPPLEMENT—DEFINITION. As used in this chapter, the term "supplement" shall be defined as instructional or support services for migratory children funded with Chapter 1 Migrant moneys, and offered by a school district in addition to required basic educational services funded with nonfederal moneys and services required by law funded with other federal or nonfederal funds. Such supplemental services shall be designed and implemented in accordance with service models described in Chapter 1 Migrant annual application instructions and shall meet the supplement/supplant tests appropriate to each model.

NEW SECTION

WAC 392-164-215 OPERATING AGENCY—DEFINITION. As used in this chapter, the term "operating agency" means:

(1) A local school district to which the superintendent of public instruction makes a subgrant of migrant education program funds;

(2) A public or nonprofit private agency with which the superintendent of public instruction makes an arrangement to carry out a migrant education project; or

(3) The superintendent of public instruction, if the superintendent of public instruction operates the state's migrant education program or projects directly.

NEW SECTION

WAC 392-164-220 PROJECT—DEFINITION. As used in this chapter, the term "project" means those services, activities, personnel, and materials provided to migratory children by the superintendent of public instruction either directly or indirectly through a local school district or by some other subgrantee as a legally approved contract.

NEW SECTION

WAC 392-164-225 ACADEMIC INSTRUCTION—DEFINITION. As used in this chapter, the term "academic instruction" means reading, oral language, language arts, mathematics: PROVIDED, That other areas of basic education instruction identified in RCW 28A.58.754, Basic Education Act, may be included if appropriate to the state and local plans approved pursuant to WAC 392-164-285.

NEW SECTION

WAC 392-164-230 GREATEST NEED OF SPECIAL ASSISTANCE—DEFINITION. As used in this chapter, the term "greatest need of special assistance" means those eligible migratory children, as defined in WAC 392-164-170, who have been identified on the basis of established selection criteria, including objective measurement of educational achievement, as in the greatest need of special assistance.

NEW SECTION

WAC 392-164-235 CONSULTATION WITH PARENTS AND TEACHERS OF PARTICIPATING CHILDREN—DEFINITION. As used in this chapter, the term "consultation with parents and teachers of participating children" means:

(1) Establishment by the local school district of a parent advisory council;

(2) Active solicitation of parent involvement in the planning, operation, and evaluation of the migrant education program, including discussion of program revenues and expenditures; and

(3) Similar involvement of teachers of children being served.

NEW SECTION

WAC 392-164-240 DEFINITION—PARTICIPATING CHILDREN. As used in this chapter, the term "participating children" means those children in greatest need of special assistance, as determined on the basis of established selection criteria, who are selected to receive services in the Chapter 1 Migrant program.

NEW SECTION

WAC 392-164-245 ANNUAL NEEDS ASSESSMENT. Operating agencies that receive Chapter 1 Migrant education program funds shall base their Chapter 1 Migrant education program and projects on an annual assessment of educational needs which meets the following criteria:

(1) Identifies migratory children who are eligible to be served under WAC 392-164-170;

(2) Requires, consistent with the service priorities in WAC 392-164-250, the selection of those migratory children in the greatest need of special assistance; and

(3) Determines the educational needs of the children selected to participate with sufficient specificity to ensure concentration on those needs.

NEW SECTION

WAC 392-164-250 SERVICE PRIORITIES. Operating agencies shall serve eligible migratory children—according to their needs—in the following order:

(1) School-aged currently migratory children.

(2) School-aged formerly migratory children.

(3) Preschool currently migratory children.

(4) Preschool formerly migratory children.

(5) PROVIDED, That if in order to provide Chapter 1 Migrant instructional services to school-aged currently migratory children, it would be necessary to provide day care or similar services to preschool-aged currently migratory children, and no other funds—other than Chapter 1 Migrant funds—are available for that purpose, or an operating agency may provide Chapter 1 Migrant instructional services instead of day care services to those preschool children as if those children had a priority higher than school-age formerly migratory children.

NEW SECTION

WAC 392-164-255 APPLICATION REQUIRED. Each local school district or other subgrantee that seeks an allocation of federal funds under Chapter 1 Migrant shall submit an annual application on forms provided by the superintendent of public instruction.

NEW SECTION

WAC 392-164-260 SUBSTANCE OF ANNUAL APPLICATION. The local school district's or other subgrantee's annual application shall include:

(1) A description of the Chapter 1 Migrant education project to be conducted, including the following:

(a) The services and types of programs to be provided.

(b) The number of children to be served in total and for each service.

(c) The types and number of staff to be employed.

(2) An appropriate budget displayed on FORM SPI F-1000B—CH. 1.

(3) The assurances in section 556(b)(2) through (b)(5) of Chapter 1 of the Education Consolidation and Improvement Act.

(4) The assurances in section 436(b)(2) and (b)(3) of the General Education Provisions Act.

(5) The state-developed assurances included in the application.

(6) Services, site, and use of facilities and equipment to be purchased.

(7) A description of the local school district's or other subgrantee's plan for involving parents of migratory children in the planning, implementation, and evaluation of the project.

NEW SECTION

WAC 392-164-265 BASIS OF PROJECT PLANNING AND FUNDING. The local school district or other subgrantee and the superintendent of public instruction shall consider the following factors in project planning and approval for funding.

(1) An operating agency's project shall:

(a) Satisfy the provisions of the approved state plan submitted by the superintendent of public instruction to the secretary of education;

(b) Be planned and implemented based on the number and specific needs of participating, eligible migratory students;

(c) Be of sufficient size and scope as determined pursuant to WAC 392-164-275 to meet the needs of the eligible migratory students to be served;

(d) Be funded in relationship to:

(i) The Migrant Student Records and Transfer System (MSRTS) reports on full-time equivalent migratory students to determine the number and status of migratory students enrolled on the MSRTS as compared to previous years' enrollment and with other local school districts and operating agencies within Washington state;

(ii) Data contained in the report of services filed with the superintendent of public instruction to determine continuity of services and projected number of participants versus the number of migratory students actually served over time;

(iii) Skills Information Systems Reports and Supplementary Services Report to determine if skills mastered by project participants and under study are consistent with the amount of staff time requested;

(iv) The number of students served in supplemental programs by the operating agency to determine whether planning information and proposed services are consistent with one another and if funds requested are intended to support a new project;

(v) Monitoring reports to determine if the local school district or subgrantee has incorporated recommendations to remedy weaknesses in previous projects into their current proposal;

(vi) Expenditure claims for the immediately preceding and current year to determine if the amount requested is realistic in light of the rate of expenditure in the current year;

(vii) State plan to determine whether the scope of services planned at the local school district or subgrantee level is within approved state priorities; and

(viii) Migrant Student Records Transfer System and Migrant Education Regional Office reports to determine the needs, strengths and weaknesses of the proposal based on information gathered in visits for reports, training, and district profiles.

(2) No project shall be established solely for formerly migratory children.

NEW SECTION

WAC 392-164-270 BOARD APPROVAL. Each annual application submitted by a local school district or other subgrantee to the superintendent of public instruction shall be approved by the board of directors only after the board has reviewed the program design and expenditures and considered each of the following:

(1) Previous year's planned expenditures and total Chapter 1 Migrant moneys requested for the ensuing year (July 1 through June 30);

(2) Evaluation results in terms of student achievement data from the previous year's program, and, when available, whether gains have been sustained over a period of one year;

(3) Results of the annual needs assessment; and

(4) The adequacy of parent/teacher consultation in the planning and implementation of the program.

NEW SECTION

WAC 392-164-275 BOARD CERTIFICATION. The board of directors shall, as a part of application approval, certify to the superintendent of public instruction that in their opinion:

(1) The local school district or other subgrantee has included among the migratory children to be served, those children in greatest need of special assistance;

(2) The approved program is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of children being served; and

(3) The school district or other subgrantee has complied with the provisions of this chapter.

NEW SECTION

WAC 392-164-280 SUPERVISORY COSTS. Support for supervisory costs related to educational services provided under this chapter shall be clearly supplemental to costs of regular supervisory activities and responsibilities of the operating agency.

(1) All direct supervisory support requested shall be documented and submitted along with the project application.

(2) A local school district or other subgrantee may claim the indirect expenditure rate defined in WAC 392-164-195 in addition to budgeting for direct supervisory expenditures subject to the approval of the superintendent of public instruction.

NEW SECTION

WAC 392-164-285 APPROVAL OF CHAPTER 1 MIGRANT PROJECT APPLICATIONS FOR A SUBGRANT BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) Final approval of a Chapter 1 Migrant project shall be given to a local school district or other subgrantee when the superintendent of public instruction has received a completed application in accordance with WAC 392-164-260 and 392-164-265 and is assured that the local school district or other subgrantee has satisfied all yearly reporting requirements and compliance agreements from the previous year, unless the agreement extends into the current year.

(2) Programs shall not be implemented without prior approval from the superintendent of public instruction. The effective approval date shall be July 1 of each year for applications received prior to July 1, or the subsequent date on which the application is received by the superintendent of public instruction.

(3) Fiscal expenditures made prior to the effective approval date indicated on an application or a request for budget revision shall not be allowed.

NEW SECTION

WAC 392-164-290 AMOUNT OF SUBGRANT. The superintendent of public instruction shall determine the amount of a subgrant to a local school district or other subgrantee based on the following factors:

(1) The number of children to be served;

(2) The nature, scope, and cost of the proposed project; and

(3) Any other relevant criteria developed by the superintendent consistent with the provisions of WAC 392-164-250, including the priorities in the approved state plan concerning ages and grade levels of children to be served, areas of the state to be served, and types of services to be provided.

NEW SECTION

WAC 392-164-295 EFFECT OF APPROVAL. Approval by the superintendent of public instruction of a project application under this chapter requires the local school district or other subgrantee to administer and operate its project in accordance with its application, any amendments, and project requirements of this chapter. That approval, however, does not create for the local school district or other subgrantee an entitlement to receive a subgrant for a period other than the fiscal year for which approval is given.

NEW SECTION

WAC 392-164-300 BUDGET REVISION—TWENTY PERCENT ALLOWED. Using either an object or activity subtotal from FORM SPI F-1000B—CH. 1 as a base, local school districts or other subgrantees may make annual expenditure adjustments of up to twenty percent of the previously budgeted object/activity cell within the approved annual application without

filing a request for a budget revision with the superintendent of public instruction.

NEW SECTION

WAC 392-164-305 BUDGET REVISIONS—UPDATING PLANNED EXPENDITURES. Except as provided in WAC 392-164-300 each local school district or other subgrantee shall expend Chapter 1 Migrant moneys in accordance with planned expenditures and the program description included in the application submitted to and approved by the superintendent of public instruction. A local school district or other subgrantee shall be required to file a request for a budget revision whenever necessary with the superintendent of public instruction in order to accomplish any of the following:

(1) Increase the total expenditure of Chapter 1 Migrant moneys.

(2) Change by more than twenty percent of an object/activity cell the expenditures among activities or object.

(3) Expend money in any object or activity where no moneys were budgeted in the approved application.

NEW SECTION

WAC 392-164-310 BUDGET REVISION—APPROVAL. Approval of budget revisions by the superintendent of public instruction shall be in accordance with the provisions of WAC 392-164-285 for approval by the superintendent of public instruction of the annual application.

NEW SECTION

WAC 392-164-315 PROGRAM UPDATE. No later than thirty calendar days following a substantial program change, a local school district or other subgrantee shall submit to the superintendent of public instruction a description of such changes. "Substantial changes" shall mean one or more of the following:

(1) Removal of Chapter 1 Migrant services from an area listed as "served" on the application.

(2) Addition of Chapter 1 Migrant services to an area not listed as "served" in the application.

(3) Modification of the Chapter 1 Migrant program in any served area by adding a new program focus, by changing grade levels, or by changing program service delivery models.

(4) Increasing the number of students served in the Chapter 1 Migrant program to such an extent that the district must exceed the twenty percent budget variance to accommodate serving the additional eligible students.

(5) PROVIDED, That notwithstanding the thirty-day provision for notification to the superintendent of public instruction of substantial program changes, if such changes necessitate a budget revision or are based on a needs assessment revision, said revision shall be submitted to the superintendent of public instruction for approval prior to implementation of proposed changes.

NEW SECTION

WAC 392-164-320 IDENTIFICATION OF MIGRATORY CHILDREN. The uniform migrant student certificate of eligibility shall be used for the purpose of identifying and recording migratory children.

(1) All migratory children shall be identified, recruited, and enrolled on the Migrant Student Records Transfer System regardless of whether or not the child resides within a school district offering a migratory program.

(2) All operating agencies with identified migratory children shall participate in the Migrant Students Records Transfer System with updating of academic, health, and other pertinent data.

(3) The projected number of migratory students to be served by any subgrantee shall be based on actual statistical information recorded on the Migrant Student Records Transfer System and other pertinent information available to the subgrantee.

(4) Each student enrolled in a migrant education program shall have on file a currently valid certificate of eligibility according to the requirements of the state of Washington migrant education program.

NEW SECTION

WAC 392-164-325 STUDENT ACCIDENT INSURANCE. All migratory children enrolled on the Migrant Student Records Transfer System and enrolled in a bona fide educational program recognized by the superintendent of public instruction shall be provided with participatory accident insurance coverage paid from migrant program funds. It is the responsibility of the local school district or other subgrantee to:

(1) Inform migratory parents of the accident insurance coverage provided for their children.

(2) Facilitate claims procedures when necessary.

NEW SECTION

WAC 392-164-330 CONSTRUCTION AND PORTABLE LEASE/PURCHASE. Chapter 1 Migrant moneys may be used for the modification of existing facilities and/or for lease/purchase of portable facilities for the purpose of serving Chapter 1 Migrant eligible children if each of the following conditions are met:

(1) The district has exhausted other available options for providing space in which to serve eligible children including the utilization of all available permanent classroom space within the district.

(2) Modification of facilities or lease/purchase of portable facilities will provide essential improvement in the delivery of Chapter 1 Migrant services to eligible children.

(3) The purchase of portable classrooms proves to be less expensive than cost of constructing more permanent structures or remodeling existing structures.

(4) PROVIDED, That such use of moneys shall have prior approval from the superintendent of public instruction which shall be granted only after an on-site visit to the school district to examine existing facilities in order to determine that the above conditions do exist.

The superintendent of public instruction is the record owner of all portable classrooms purchased under this chapter.

NEW SECTION

WAC 392-164-335 PROPERTY, FACILITIES, AND EQUIPMENT. The superintendent of public instruction administers directly the construction of facilities and the acquisition of property and equipment needed to implement programs for migratory children; and retains title to such facilities, property, and equipment and possesses the right to move or transfer them according to need. Such procedures shall be consistent with 34 CFR 74.130-145, Subpart 0—Property, which governs the acquisition, inventory, and disposition of property purchased with federal funds.

NEW SECTION

WAC 392-164-340 DAY CARE. Day care of infants and very young children may be provided under this part as a service to such children upon specific application to the superintendent of public instruction with sufficient information to enable the superintendent of public instruction to determine that such care as described in the application is:

(1) Not available from other public or private agencies which provide day care services in the geographical area to be served;

(2) Essential to enable eligible currently migratory children to participate in instructional services by relieving them of the responsibility of caring for younger children; and

(3) Cost effective in view of the number of children who would receive day care, the number of currently migratory children involved, and the effect the availability of such services would have on the attendance and participation of such migratory children in instructional services.

NEW SECTION

WAC 392-164-345 PRESCHOOL SERVICES. Preschool services for eligible migratory children may be provided under this part as a service to preschool children upon specific application to the superintendent of public instruction with sufficient information to enable him to determine that such care as described in the application:

(1) Serves eligible students who are currently migratory children ages three to school age;

(2) Supplements services available from other public or private agencies;

(3) Is not extravagant in view of the cost and the number of children involved;

(4) Does not prevent participation of school age migratory children or detract from the operation of projects for school age children;

(5) Is developed based on an academic and support services needs assessment; and

(6) Is designed to provide for the special educational, cultural, and linguistic needs of the children.

NEW SECTION

WAC 392-164-350 FISCAL REQUIREMENTS. Fiscal requirements for operating agencies receiving funds under this chapter shall be understood and applied as described in WAC 392-163-245, 392-163-405, 392-163-410, and 392-163-415 which apply to Chapter 1 Regular of the Education Consolidation and Improvement Act.

NEW SECTION

WAC 392-164-355 CHAPTER 1 MIGRANT AUDIT. Audit of local school district Chapter 1 Migrant programs shall be conducted in compliance with 34 CFR Part 74, Subpart H—"Standards for grantee and subgrantee financial management systems and non-federal audits" and Appendix G, "Audit requirements for state and local governments."

NEW SECTION

WAC 392-164-360 NOTIFICATION OF PARENTS. Each school district shall notify parents of participating children of their child's involvement in the Chapter 1 Migrant program and shall issue periodic reports of the child's progress in the program. Such notification and reports shall be provided in the primary language of the parent if necessary for communication unless it is clearly not feasible to do so.

NEW SECTION

WAC 392-164-365 LOCAL PARENT ADVISORY COUNCILS—COMPOSITION AND PROCEDURES. A parent advisory council shall be established in each local school district or subgrantee which receives a subgrant under this chapter. Such parent advisory council shall:

(1) Be composed of parents of children eligible to be served, who shall constitute at least a simple majority of said council, and other persons knowledgeable in the needs of migratory children.

(2) Assist the district in the planning, implementation, operation, and evaluation of the present local project and in the planning of future projects.

(3) Have parent members selected from among the parent group by the parents themselves. The balance of the parent advisory council membership may be appointed by the district and shall consist of representatives of social, health service, local business and industry, and other such community agencies.

(4) Elect its own chair and such other officers as the membership deems appropriate.

(5) Formulate bylaws and a procedure by which parents may present grievances to the local school district or other subgrantee.

NEW SECTION

WAC 392-164-370 ANNUAL MEETING OF PARENTS. An operating agency that receives Chapter

1 Migrant funds shall convene annually a public meeting, to which all parents of eligible children must be invited, to discuss with those parents the programs and activities provided with Chapter 1 Migrant funds.

(1) The meeting agenda shall include:

(a) Informing parents of their right to consult in the design and implementation of the agency's Chapter 1 Migrant project;

(b) Soliciting parents' input; and

(c) Providing parents an opportunity to establish mechanisms for maintaining ongoing communication among parents, teachers, and agency officials.

(2) An operating agency may hold one or more meetings at sites convenient to such agency to meet the requirement in subsection (1) of this section.

(3) If parents of eligible children desire further activities, the operating agency may, upon request, provide reasonable support for these activities. This support may include, but is not limited to:

(a) Reasonable access to meeting space and materials;

(b) Provision of information concerning the Chapter 1 Migrant law, regulations, and instructional programs;

(c) Training programs for parents; and

(d) Other resources, as appropriate.

NEW SECTION

WAC 392-164-375 STATE ADVISORY COMMITTEE. The purpose of the state advisory committee shall be to advise the superintendent of public instruction in planning, developing, operating, and evaluating the state Chapter 1 Migrant program; and to facilitate communication among local parent advisory councils and between the state advisory committee and local councils.

(1) Membership of the state advisory committee shall be as follows:

(a) The superintendent of public instruction shall select parent members from nominations submitted by local parent advisory committees, current state advisory committee members, or migrant education staff;

(b) The majority of the state advisory committee shall consist of such parents, selected from nominees; and

(c) The balance of the state advisory committee shall be selected by the superintendent of public instruction and shall consist of representatives of local and intermediate school districts, the Washington Hispanic commission, a high school migratory student, and such other agencies and committees as are deemed appropriate.

(2) Bylaws shall be developed jointly by the state advisory committee and the superintendent of public instruction.

(3) Election of officers shall be conducted by the membership.

(4) The superintendent of public instruction shall call all meetings.

(5) Members shall be reimbursed for travel and expenses consistent with state law.

(6) The executive secretary of the state advisory committee shall be an employee of the superintendent of public instruction who shall be assisted by the executive committee of the state advisory committee in finalizing

and facilitating state advisory committee meeting agendas.

NEW SECTION

WAC 392-164-380 REPORT OF SERVICES—ANNUAL REQUIREMENT. Each local school district or other subgrantee that receives a subgrant under Chapter 1 Migrant shall submit to the superintendent of public instruction each year a report of services compiled and verified by such entity or compiled by the Migrant Student Records Transfer System and verified by the local school district or other subgrantee. Such verified report shall be received by the superintendent of public instruction no later than the second Friday in July and shall contain all information requested, including data on the race, age, and gender of children served by the Chapter 1 Migrant program and on the number of children served by grade level.

NEW SECTION

WAC 392-164-385 REPORT OF SERVICES—SUMMER SCHOOL ADDENDUM. Any local school district or other subgrantee which conducts a summer school supported with Chapter 1 Migrant moneys, in addition to the annual report of services, shall submit a separate report of summer school services by the second Friday in September in the form required by the superintendent of public instruction.

NEW SECTION

WAC 392-164-390 PROGRAM EVALUATION. Each local school district or other subgrantee that receives a subgrant under Chapter 1 Migrant shall evaluate their Chapter 1 Migrant program using a locally-developed evaluation method or the Chapter 1 Evaluation and Reporting System (CHIERS) for reporting student impact data to the superintendent of public instruction. In addition, each local school district or other subgrantee, when appropriate, shall determine whether improved student achievement is sustained over a period of more than one program year, and shall consider that data in the improvement of programs and projects assisted with Chapter 1 Migrant moneys.

NEW SECTION

WAC 392-164-395 PROJECT PROGRAM AND BUDGET REVISIONS. Program and budget revisions to a migrant project may be initiated by either the local school district or other subgrantee or the superintendent of public instruction.

NEW SECTION

WAC 392-164-400 PROGRAM COMPLIANCE REVIEW. The superintendent of public instruction shall conduct program compliance reviews of all operating agencies receiving Chapter 1 Migrant moneys. Review of each operating agency shall occur at least once every three years. Upon receipt of the compliance review report from the superintendent of public instruction the operating agencies shall have one month to respond to

the superintendent of public instruction if there are exceptions noted in the report. Substantial noncompliance or failure by the operating agencies to respond and/or initiate corrective action in a timely manner shall be subject to actions prescribed in WAC 392-164-410 or 392-164-415.

NEW SECTION

WAC 392-164-405 SUBGRANTEE ACCOUNTABILITY. Chapter 1 Migrant program accountability and compliance procedures under this chapter shall apply to all operating agencies receiving migrant funds under this chapter.

NEW SECTION

WAC 392-164-410 WITHHOLDING OF CHAPTER 1 MIGRANT PAYMENTS. Withholding by the superintendent of public instruction of Chapter 1 Migrant payments shall occur only under the following conditions.

(1) If the superintendent of public instruction determines that an operating agency is not in substantial compliance with federal statute and regulation or with this chapter, the superintendent of public instruction shall have the authority to withhold payment in whole or in part of Chapter 1 Migrant moneys to the offending operating agency. In deciding whether to withhold payments, the superintendent of public instruction shall provide:

- (a) Reasonable notice to the operating agency of the reasons for the proposed withholding; and
 - (b) An opportunity for the operating agency within thirty calendar days of such notice to give reason why the withholding should not be instituted.
- (2) Pursuant to the operating agency response, the superintendent of public instruction shall consider the following factors:
- (a) The seriousness of the noncompliance;
 - (b) The amount of Chapter 1 Migrant moneys involved;
 - (c) The effect of withholding on participating children; and
 - (d) The need to withhold payments to prevent further misuse of Chapter 1 Migrant moneys.

(3) If, after consideration of these factors and within thirty calendar days, the superintendent of public instruction decides to initiate a withholding procedure, a date shall be specified by which the operating agency shall have achieved compliance, or the moneys withheld shall become subject to repayment procedures specified in 34 CFR 204.11(b), "Access to records and audits, state and local responsibilities."

NEW SECTION

WAC 392-164-415 COMPLIANCE AGREEMENT. Notwithstanding any of the actions prescribed by WAC 392-164-410, any operating agency found out of compliance with this chapter may as a substitute for, or in conjunction with, withholding or repayment actions referenced in WAC 392-164-410 be required to enter into a compliance agreement with the superintendent of

public instruction to ensure that noncompliant Chapter 1 Migrant program practices are corrected within a period of time specified in that agreement, as a condition to continuous receipt of Chapter 1 Migrant moneys. If an operating agency fails to achieve compliance within the specified period of time, the withholding and/or repayment procedures prescribed by WAC 392-164-410 shall be instituted by the superintendent of public instruction.

WSR 88-13-090
ADOPTED RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Order 313—Filed June 20, 1988]

Be it resolved by the State Wildlife Commission acting at Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, that it does adopt the annexed rules relating to:

- | | | |
|-----|------------------|--|
| New | WAC 232-28-217 | 1988 Hunting seasons and game bag limits and 1988 Game management units and area legal descriptions. |
| Rep | WAC 232-28-213 | 1987 Hunting seasons and game bag limits and 1987 Game management units and area legal descriptions. |
| Rep | WAC 232-28-21301 | Amendment to 1987 hunting seasons and rules. |
| Rep | WAC 232-28-214 | Cooperative road management program. |

This action is taken pursuant to Notice No. WSR 88-08-083 filed with the code reviser on April 6, 1988. 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 77.12.040 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 May 14, 1988.

By Dr. James M. Walton
Chairman, Wildlife Commission

NEW SECTION

WAC 232-28-217 1988 HUNTING SEASONS AND GAME BAG LIMITS AND 1988 GAME MANAGEMENT UNITS AND AREA LEGAL DESCRIPTIONS.

Reviser's note: The text and accompanying pamphlet comprising the 1988 Hunting seasons and game bag limits and 1988 Game management units and area legal descriptions adopted by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 232-28-213 1987 Hunting Seasons and Game Bag Limits and 1987 Game Management Units and Area Legal Descriptions

WAC 232-28-21301 Amendments to 1987 Hunting Seasons and Rules

WAC 232-28-214 Cooperative Road Management Program

WSR 88-13-091
ADOPTED RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Order 312—Filed June 20, 1988]

Be it resolved by the Department of Wildlife and State Wildlife Commission, acting at Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, that it does adopt the annexed rules relating to tagging requirements for bobcat, Canada lynx and river otter, amending WAC 232-12-024.

This action is taken pursuant to Notice No. WSR 88-08-085 filed with the code reviser on April 6, 1988. 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 77.12.030 and 77.12.040 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 May 15, 1988, by commission and June 9, 1988, by department.

By James M. Walton
Chairman, Wildlife Commission

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-024 TAGGING REQUIREMENTS FOR BOBCAT, CANADA LYNX, COUGAR AND RIVER OTTER. It is unlawful to possess or export from the state of Washington, bobcat, Canada lynx, cougar or river otter pelts or parts thereof taken in Washington unless they have a department identification tag attached to them.

Pelts of bobcat, lynx and river otter must be tagged within ten days after the close of the appropriate hunting or trapping seasons in which they were harvested. Cougar pelts must be tagged within ten days of the date of kill.

All bobcat, Canada lynx, cougar and river otter pelts must be presented by the person harvesting the animal to a wildlife agent or department office for tagging.

Bobcat, Canada lynx or river otter taken outside Washington and imported into the state, must be identified by a tag from the state or country of origin and accompanied by an invoice or declaration specifying the number of pelts in the shipment.

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 88-13-092

PROPOSED RULES

OFFICE OF FINANCIAL MANAGEMENT

[Filed June 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Financial Management intends to adopt, amend, or repeal rules concerning this notice proposes to amend WAC 82-50-021 Official lagged, semimonthly paydates established, in the following ways: Delete from the section the official semimonthly paydates used in calendar year 1987; and add to the section the official semimonthly paydates to be used in calendar year 1989. The result of these changes will be to have the WAC section display the official lagged, semimonthly paydates for calendar years 1988 and 1989.

This notice also proposes to make the following technical changes: Delete from WAC 82-50-021 Official lagged, semimonthly pay dates established, reference to a January 1, 1984, starting date for twice-a-month pay periods; make revisions to WAC 82-50-031 Exceptions, the correct, original effective date of adoption of the lagged semimonthly pay date regulations—September 23, 1983—is being specifically added to subsection (1) in place of a vague reference to the date. Additionally, "PROVIDED, That" phrases in subsections (1) and (3) are being replaced by more precise language to clarify the original meaning of these two subsections; and repealing WAC 82-50-041 Effective date. These three technical changes are being made on the advice of the code reviser's office to eliminate historical references serving no further use and to replace confusing, ambiguous language with more precise language;

that the agency will at 10:00 a.m., Wednesday, July 27, 1988, in the Third Floor Conference Room, Insurance Building, Olympia, 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 42.16.010(1) and 42.16.017.

The specific statute these rules are intended to implement is RCW 42.16.010(1) and 42.16.017.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, July 22, 1988.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Mr. Collum C. Liska
Accounting and Fiscal Services Division
430 Insurance Building
Mailstop AQ-44
Olympia, Washington 98504-0201
(206) 753-8538
234-8538 scan

Dated: June 20, 1988

By: Dan Pensula

Assistant Director

Accounting and Fiscal

Services Division

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 82-50 WAC, Paydates for state employees, consisting of the following: Amending WAC 82-50-021 Official lagged, semimonthly paydates established.

Statutory Authority: RCW 42.16.010(1) and 42.16.017.

Specific Statute that the Rule is Intended to Implement: RCW 42.16.010(1) and 42.16.017.

Summary of Rules: See above.

Reasons Supporting the Proposed Rules: Needed to ensure compliance with the legislative directive to annually update and publish the official lagged, semimonthly paydates for the current and ensuing calendar years through the administrative hearing process. The proposed amended rules also provide technical corrections to the WAC recommended by the code reviser's office.

Involved Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mr. Collum C. Liska, Senior Executive Policy Coordinator, Accounting and Fiscal Services Division, Office of Financial Management, 430 Insurance Building, Mailstop AQ-44, Olympia, Washington 98504-0201, phone (206) 753-8538.

Name of Involved Agency Proposing the Rules: Office of Financial Management.

Agency Comments: None.

The rules are not necessary to comply with a federal law, or a federal or state court decision.

Other Information: None.

Small Business Economic Impact Statement: Not attached since these proposed rules are not applicable to the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 87-65, filed 7/30/87)

WAC 82-50-021 OFFICIAL LAGGED, SEMIMONTHLY PAY DATES ESTABLISHED. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1) (~~that began on January 1, 1984~~). The following are the official lagged, semimonthly pay dates for calendar years (~~(1987 and)~~) 1988 and 1989:

CALENDAR YEAR 1987	CALENDAR YEAR 1988
Friday, January 9, 1987	Monday, January 11, 1988
Monday, January 26, 1987	Monday, January 25, 1988
Tuesday, February 10, 1987	Wednesday, February 10, 1988
Wednesday, February 25, 1987	Thursday, February 25, 1988
Tuesday, March 10, 1987	Thursday, March 10, 1988
Wednesday, March 25, 1987	Friday, March 25, 1988
Friday, April 10, 1987	Monday, April 11, 1988
Friday, April 24, 1987	Monday, April 25, 1988
Monday, May 11, 1987	Tuesday, May 10, 1988
Friday, May 22, 1987	Wednesday, May 25, 1988
Wednesday, June 10, 1987	Friday, June 10, 1988
Thursday, June 25, 1987	Friday, June 24, 1988
Friday, July 10, 1987	Monday, July 11, 1988
Friday, July 24, 1987	Monday, July 25, 1988
Monday, August 10, 1987	Wednesday, August 10, 1988
Tuesday, August 25, 1987	Thursday, August 25, 1988
Thursday, September 10, 1987	Friday, September 9, 1988
Friday, September 25, 1987	Monday, September 26, 1988
Friday, October 9, 1987	Friday, October 7, 1988
Monday, October 26, 1987	Tuesday, October 25, 1988
Tuesday, November 10, 1987	Thursday, November 10, 1988
Wednesday, November 25, 1987	Wednesday, November 23, 1988
Thursday, December 10, 1987	Friday, December 9, 1988
Thursday, December 24, 1987	Friday, December 23, 1988
CALENDAR YEAR 1988	CALENDAR YEAR 1989

Monday, January 11, 1988	Tuesday, January 10, 1989
Monday, January 25, 1988	Wednesday, January 25, 1989
Wednesday, February 10, 1988	Friday, February 10, 1989
Thursday, February 25, 1988	Friday, February 24, 1989
Thursday, March 10, 1988	Friday, March 10, 1989
Friday, March 25, 1988	Friday, March 24, 1989
Monday, April 11, 1988	Monday, April 10, 1989
Monday, April 25, 1988	Tuesday, April 25, 1989
Tuesday, May 10, 1988	Wednesday, May 10, 1989
Wednesday, May 25, 1988	Thursday, May 25, 1989
Friday, June 10, 1988	Friday, June 9, 1989
Friday, June 24, 1988	Monday, June 26, 1989
Monday, July 11, 1988	Monday, July 10, 1989
Monday, July 25, 1988	Tuesday, July 25, 1989
Wednesday, August 10, 1988	Thursday, August 10, 1989
Thursday, August 25, 1988	Friday, August 25, 1989
Friday, September 9, 1988	Monday, September 11, 1989
Monday, September 26, 1988	Monday, September 25, 1989
Friday, October 7, 1988	Tuesday, October 10, 1989
Tuesday, October 25, 1988	Wednesday, October 25, 1989
Thursday, November 10, 1988	Thursday, November 9, 1989
Wednesday, November 23, 1988	Wednesday, November 22, 1989
Friday, December 9, 1988	Monday, December 11, 1989
Friday, December 23, 1988	Friday, December 22, 1989

AMENDATORY SECTION (Amending Order 83-59, filed 8/24/83)

WAC 82-50-031 EXCEPTIONS. The salaries of all state officers and employees shall be paid on a schedule consistent with the provisions of WAC 82-50-021 with the following exceptions:

(1) Schedules for the payment of compensation on dates other than those established in WAC 82-50-021 are authorized for those state officers and employees with written contracts currently in force which explicitly specify payroll dates other than those established in WAC 82-50-021 until the contracts in effect on ~~((the effective date of this rule))~~ September 23, 1983, expire or are renegotiated(~~(-PROVIDED, That))~~. After that date, no state agency, office, or institution (~~(staff hereafter))~~ may contract or agree to any payroll dates other than as specified in WAC 82-50-021 and no state agency, office, or institution (~~(staff))~~ may agree to any extension of a contract specifying payroll dates other than those set in WAC 82-50-021 without amending the contract to delete any reference to payroll dates other than those established by WAC 82-50-021.

(2) Schedules for the payment of compensation on pay dates other than those established in WAC 82-50-021 may be authorized in writing by the director of the office of financial management, or the director's designee, in the following instances:

- (a) For short-term, intermittent, noncareer state employees;
- (b) For student employees of institutions of higher education; and
- (c) For liquor control agency managers who are paid a percentage of monthly liquor sales.

(3) Schedules for the payment of compensation on pay dates other than those established in WAC 82-50-021 may be authorized by the director of the office of financial management, or the director's designee, only upon the written request of the agency head, or the agency head's designee, and only for the purpose of maintaining a lagged,

semimonthly pay date schedule of shorter duration than the official lagged, semimonthly pay date schedule established in WAC 82-50-021(~~(-PROVIDED, That))~~. However, the official pay periods established by RCW 42.16.010(1) are in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 82-50-041 EFFECTIVE DATE.

**WSR 88-13-093
PROPOSED RULES
BOARD OF PHARMACY
[Filed June 20, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning good manufacturing practices;

that the agency will at 10:00 a.m., Wednesday, August 24, 1988, in the Group Health Building, Third and Wall, Seattle, 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 18.64.005.

The specific statute these rules are intended to implement is RCW 18.64.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 23, 1988.

Dated: June 17, 1988
By: John H. Keith, AAG
Board Counsel

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Pharmacy.

Statutory Authority: RCW 18.64.005.

Summary, Purpose of Rule and Reason Proposed: The following rules all relate to good manufacturing practices for drug manufacturers. The changes are proposed to improve the regulation of this activity to increase public protection and to update terminology and recognize developments in drug product manufacture. The affected rules are: WAC 360-46-010 Definitions; 360-46-020 Finished pharmaceuticals—Manufacturing practice; 360-46-030 Personnel; 360-46-040 Buildings or facilities; 360-46-050 Equipment; 360-46-060 Production and control procedures; 360-46-070 Components; 360-46-090 Laboratory controls; 360-46-100 Stability; 360-46-120 Packaging and labeling; 360-46-130 Master production and control records—Batch production and control records; and 360-46-160 Variance and procedure.

Responsible Agency Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East

Seventh Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents of the Proposed Rules: Washington State Board of Pharmacy.

Federal Law or State or Federal Court Requirements: These rules are not necessitated as a result of federal law or state or federal court action.

Small Business Economic Impact Statement: Not necessary since these rules do not impact small businesses as that term was defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-010 DEFINITIONS. (1) As used in these regulations, "act" means the Uniform Food, Drug and Cosmetic Act, chapter 69.04 RCW.

(2) The definitions and interpretations contained in the act shall be applicable to such terms used in these regulations.

(3) As used in these regulations:

(a) The term "component" means any ingredient intended for use in the manufacture of ~~((drugs in dosage form))~~ a drug product, including those that may not appear in the finished product.

~~(b) ((The term "batch" means a specific quantity of a drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.~~

~~(c) The term "lot" means a batch or any portion of a batch of a drug or, in the case of a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures its uniformity, and in either case which is identified by a distinctive lot number and has uniform character and quality within specified limits.~~

~~(d) The terms "lot number" or "control number" mean any distinctive combination of letters, numbers, or both, from which the complete history of the manufacture, control, packaging, and distribution of a batch or lot of drug can be determined.~~

~~(e)) The term "drug product" means a finished dosage form, for example, tablet, capsule, solution, etc., that contains an active drug ingredient generally, but not necessarily, in association with inactive ingredients. The term also includes a finished dosage form that does not contain an active ingredient but is intended to be used as a placebo.~~

~~(c) The term "active ingredient" means any component ((which)) that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of ((man)) humans or other animals. The term ((staff)) includes those components ((which)) that may undergo chemical change in the manufacture of the drug product and be present in ((the finished)) that drug product in a modified form intended to furnish the specified activity or effect.~~

~~((ff)) (d) The term "inactive ingredient" means any component other than an "active ingredient" ((means any component other than an "active ingredient")) present in a drug product.~~

~~(e) The term "batch" means a specific quantity of a drug or other material that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.~~

~~(f) The term "lot" means a batch or a specific identified portion of a batch having uniform character and quality within specified limits; or, in the case of a drug product produced by continuous process, it is a specific identified amount produced in a unit of time or quantity in a manner that assures its having uniform character and quality within specified limits.~~

~~(g) The terms "lot number," "control number," or "batch number" mean any distinctive combination of letters, numbers, or symbols, or any combination of them, from which the complete history of the manufacture, processing, packing, holding, and distribution of a batch or lot of drug product or other material can be determined.~~

~~((g)) (h) The term ((materials approval)) quality control unit" means any person or organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.~~

~~((h)) (i) The term "strength" means:~~

~~(i) The concentration of the drug ((substance)) product (for example, w/w, w/v, or unit dose/volume basis); and/or~~

~~(ii) The potency, that is, the therapeutic activity of the drug ((substance)) product as indicated by appropriate laboratory tests or by adequately developed and controlled clinical data (expressed, for example, in terms of units by reference to a standard).~~

~~(j) The term "fiber" means any particulate contaminant with a length at least three times greater than its width.~~

~~(k) The term "nonfiber-releasing filter" means any filter, which after any appropriate pretreatment such as washing or flushing, will not release fibers into the component or drug product that is being filtered. All filters composed of asbestos are deemed to be fiber-releasing filters.~~

~~(l) The term "manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages or labels such substance or device.~~

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-020 FINISHED PHARMACEUTICALS—MANUFACTURING PRACTICE. (1) The criteria in WAC 360-46-040 through 360-46-150, inclusive, shall apply in determining whether the methods used in, or the facilities or controls used for, the manufacture, processing, packing, or holding of a drug conform to or are operated or administered in conformity with current good manufacturing practice to assure that a drug meets the requirements of the act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess as required by the act.

(2) The regulations in this ((part)) chapter permit the use of precision automatic, mechanical, or electronic equipment in the production and control of drugs when ((adequate)) written inspection and checking policies and procedures are used to assure proper performance.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-030 PERSONNEL. (1) The personnel responsible for directing the manufacture and control of the drug shall be adequate in number and background of education, training, and experience, or combination thereof, to assure that the drug has the safety, identity, strength, quality, and purity that it purports to possess. All personnel shall have capabilities commensurate with their assigned functions, a thorough understanding of the manufacturing or control operations they perform, the necessary training or experience, and adequate information concerning the reason for application of pertinent provisions of this part to their respective functions.

(2) Any person shown at any time (either by medical examination or supervisory observation) to have an apparent illness or open lesions that may adversely affect the safety or quality of drugs shall be excluded from direct contact with components, drug product containers, closures, in-process materials, and drug products until the condition is corrected or determined by competent medical personnel not to jeopardize the safety or quality of drug products. All employees shall be instructed to report to supervisory personnel any conditions that may have such an adverse effect on drug products.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-040 BUILDINGS OR FACILITIES. Buildings shall be maintained in a clean and orderly manner and shall be of suitable size, construction, and location to facilitate adequate cleaning, maintenance, and proper operations in the manufacturing, processing, packing, repackaging, labeling, or holding of a drug. The buildings shall:

(1) Provide adequate space for:

(a) Orderly placement of equipment and materials to minimize any risk of mixups between different drugs, drug components, drug products, in-process materials, packaging materials, or labeling, and to minimize the possibility of contamination.

(b) The receipt, storage, and withholding from use of components pending sampling, identification, and testing prior to release by the ((materials approval)) quality control unit for manufacturing or packaging.

(c) The holding of rejected components prior to disposition to preclude the possibility of their use in manufacturing or packaging procedures for which they are unsuitable.

(d) The storage of components, containers, packaging materials, and labeling.

(e) Any manufacturing and processing operations performed.

(f) Any packaging or labeling operations.

(g) Storage of finished products.

(h) Control and production-laboratory operations.

(2) Provide adequate lighting, ventilation, and screening and, when necessary for the intended production or control purposes, provide facilities for adequate air-pressure, microbiological, dust humidity, and temperature controls to:

(a) Minimize contamination of products by extraneous adulterants, including cross-contamination of one product by dust or particles of ingredients arising from the manufacture, storage, or handling of another product.

(b) Minimize dissemination of micro-organisms from one area to another.

(c) Provide suitable storage conditions for drug components, in-process materials, and finished drugs in conformance with stability information as derived under WAC 360-46-100.

(3) Provide adequate locker facilities and hot and cold water washing facilities, including soap or detergent, air drier or single service towels, and clean toilet facilities near working areas.

(4) Provide an adequate supply of potable water under continuous positive pressure in a plumbing system free of defects that could cause or contribute to contamination of any drug. Drains shall be of adequate size and, where connected directly to a sewer, shall be equipped with traps to prevent back-siphonage.

(5) Provide suitable housing and space for the care of all laboratory animals.

(6) Provide for safe and sanitary disposal of sewage, trash, and other refuse within and from the buildings and immediate premises.

(7) Be maintained in a clean, orderly, and sanitary condition. There shall be written procedures assigning responsibility for sanitation and describing the cleaning schedule and methods.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-050 EQUIPMENT. Equipment used for the manufacture, processing, packing, labeling, holding, testing, or control of drugs shall be maintained in a clean and orderly manner and shall be of suitable design, size, construction, and location to facilitate cleaning, maintenance, and operation for its intended purpose. The equipment shall:

(1) Be so constructed that all surfaces that come into contact with a drug component, in-process material, or drug product shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug ~~((or its components))~~ product beyond the official or other established requirements.

(2) Be so constructed that any substances required for operation of the equipment, such as lubricants or coolants, do not contact drug products so as to alter the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.

(3) Be constructed and installed to facilitate adjustment, disassembly cleaning and maintenance to assure the reliability of control procedures, uniformity of production and exclusion from the drugs of contaminants from previous and current operations that might affect the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.

(4) Be of suitable type, size and accuracy for any testing, measuring, mixing, weighing, or other processing or storage operations.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-060 PRODUCTION AND CONTROL PROCEDURES. Production and control procedures shall include all reasonable precautions, including the following, to assure that the drugs produced have the safety, identity, strength, quality, and purity they purport to possess:

(1) Each significant step in the process, such as the selection, weighing, and measuring of components, the addition of ingredients during the process, weighing and measuring during various stages of the processing, and the determination of the finished yield, shall be performed by a competent and responsible individual and checked by a second competent and responsible individual; or if such steps in the processing are controlled by precision automatic, mechanical, or electronic equipment, their proper performance is adequately checked by

one or more competent individuals. The written record of the significant steps in the process shall be identified by the individual performing these tests and by the individual charged with checking these steps. Such identifications shall be recorded immediately following the completion of such steps.

(2) All containers, lines, and equipment used during the production of a batch of a drug shall be properly identified at all times to accurately and completely indicate their contents, including batch number, and, when necessary, the stage of processing of the batch.

(3) To minimize contamination and prevent mixups, equipment, utensils, and containers shall be thoroughly and appropriately cleaned and properly stored and have previous batch identification removed or obliterated between batches or at suitable intervals in continuous production operations.

~~(4) Appropriate ((precautions shall be taken to minimize microbiological and other contamination in the production of drugs purporting to be sterile or which by virtue of their intended use should be free from objectionable micro-organisms:~~

(5)) written procedures, designed to prevent objectionable microorganisms in drug products not requiring to be sterile, shall be established and followed.

(5) Appropriate written procedures, designed to prevent microbiological contamination of drug products purporting to be sterile, shall be established and followed. Such procedures shall include validation of any sterilization process.

(6) Appropriate procedures shall be established to minimize the hazard of cross-contamination of any drugs while being manufactured or stored.

~~((6))~~ (7) To assure the uniformity and integrity of products, there shall be adequate in-process controls, such as checking the weights and disintegration times of tablets, the adequacy of mixing, the ~~((homogeneity))~~ homogeneity of suspensions, and the clarity of solutions. In-process sampling shall be done at appropriate intervals using suitable equipment.

~~((7))~~ (8) Representative samples of all dosage form drugs shall be tested to determine their conformance with the specifications for the product before distribution.

~~((8))~~ (9) Procedures shall be instituted whereby review and approval of all production and control records, including packaging and labeling, shall be made prior to the release or distribution of a batch. A thorough investigation of any unexplained discrepancy or the failure of a batch to meet any of its specifications shall be undertaken whether or not the batch has already been distributed. This investigation shall be undertaken by a competent and responsible individual and shall extend to other batches of the same drug and other drugs that may have been associated with the specific failure. A written record of the investigation shall be made and shall include the conclusions and followup.

~~((9))~~ (10) Returned goods shall be identified as such and held. If the conditions under which returned goods have been held, stored, or shipped prior to or during their return, or the condition of the product, its container, carton, or labeling as a result of storage or shipping, cast doubt on the safety, identity, strength, quality, or purity of the drug product, the returned goods shall be destroyed or subjected to adequate examination or testing to assure that the material meets all appropriate standards or specifications before being returned to stock for warehouse distribution or repacking. If the product is neither destroyed nor returned to stock, it may be reprocessed provided the final product meets all its standards and specifications. Records of returned goods shall be maintained and shall indicate the quantity returned, date, and actual disposition of the product. If the reason for returned goods implicates associated batches, an appropriate investigation shall be made in accordance with the requirements of ~~((paragraph (9)))~~ subsection (9) of this section.

~~((10))~~ (11) Filters used in the manufacture, processing, or packaging of components of drug products for parenteral injection in humans shall not release fibers into such products. No asbestos-containing or other fiber-releasing filter may be used in the manufacture, processing, or packaging of such products. Filtration, as needed, shall be through a non-fiber-releasing filter. ~~((For the purpose of this regulation a non-fiber-releasing filter is defined as a non-asbestos filter that, after any appropriate pretreatment, such as washing or flushing, will not continue to release fibers into the drug product or component that is being filtered. A fiber is defined as any particle with length at least three times greater than its width.))~~

(12) Appropriate procedures shall be established to destroy beyond recognition and retrievability any and all components or drug products that are to be discarded or destroyed for any reason.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-070 COMPONENTS. All components and other materials used in the manufacture, processing, and packaging of drug products, and materials necessary for building and equipment maintenance, upon receipt shall be stored and handled in a safe, sanitary, and orderly manner. Adequate measures shall be taken to prevent mixups and cross-contamination affecting drugs and drug products. Components shall be withheld from use until they have been identified, sampled, and tested for conformance with established specifications and are released by a ~~((materials approval))~~ quality control unit. Control of components shall include the following:

(1) Each container of component shall be examined visually for damage or contamination prior to use, including examination for breakage of seals when indicated.

(2) An adequate number of samples shall be taken from a representative number of component containers from each lot and shall be subjected to one or more tests to establish the specific identity.

(3) Sample containers shall be identified so that the following information can be determined: Name of the material sampled, the lot number, the container from which the sample was taken, and the name of the person who collected the sample.

(4) Containers from which samples have been taken shall be marked to show that samples have been removed from them.

(5) Representative samples of components liable to contamination with filth, insect infestation, or other extraneous contaminants shall be appropriately examined.

~~((4))~~ (6) Representative samples of all components intended for use as active ingredients shall be tested to determine their strength in order to assure conformance with appropriate specifications.

~~((5))~~ (7) Representative samples of components liable to microbiological contamination shall be subjected to microbiological tests prior to use. Such components shall not contain ~~((microorganisms))~~ microorganisms that are objectionable in view of their intended use.

~~((6))~~ (8) Approved components shall be appropriately identified and retested as necessary to assure that they conform to appropriate specifications of identity, strength, quality, and purity at time of use. This requires the following:

(a) Approved components shall be handled and stored to guard against contaminating or being contaminated by other drugs or components.

(b) Approved components shall be rotated in such a manner that the oldest stock is used first.

(c) Rejected components shall be identified and held to preclude their use in manufacturing or processing procedures for which they are unsuitable.

~~((7))~~ (9) Appropriate records shall be maintained, including the following:

(a) The identity and quantity of the component, the name of the supplier, the supplier's lot number, and the date of receipt.

(b) Examinations and tests performed and rejected components and their disposition.

(c) An individual inventory and record for each component used in each batch of drug manufactured or processed.

~~((8))~~ (10) An appropriately identified reserve sample of all active ingredients consisting of at least twice the quantity necessary for all required tests, except those for sterility and determination of the presence of pyrogens, shall be retained for at least two years after distribution of the last drug lot incorporating the component has been completed or one year after the expiration date of this last drug lot, whichever is longer.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-090 LABORATORY CONTROLS. Laboratory controls shall include the establishment of scientifically sound and appropriate written specifications, standards, and test procedures to assure that components, in-processed drugs, and finished products conform to appropriate standards of identity, strength, quality and purity. Laboratory controls shall include:

(1) The establishment of master records containing appropriate specifications for the acceptance of each lot of drug components, product containers, and their components used in drug production and packaging and a description of the sampling and testing procedures used for them. Said samples shall be representative and adequately identified. Such records shall also provide for appropriate retesting of drug components, product containers, and their components subject to deterioration.

(2) A reserve sample of all active ingredients as required by WAC 360-46-070(2).

(3) The establishment of master records, when needed, containing specifications and a description of sampling and testing procedures for in-process drug preparations. Such samples shall be adequately representative and properly identified.

(4) The establishment of master records containing a description of sampling procedures and appropriate specifications for finished drug products. Such samples shall be adequately representative and properly identified.

(5) Adequate provisions for checking the identity and strength of drug products for all active ingredients and for assuring:

(a) Sterility of drugs purported to be sterile and freedom from objectionable micro-organisms for those drugs which should be so by virtue of their intended use.

(b) The absence of pyrogens for those drugs purporting to be pyrogen-free.

(c) Minimal contamination of ~~((ophthalmic))~~ ophthalmic ointments by foreign particles and harsh or abrasive substances.

(d) That the drug release pattern of sustained release products is tested by laboratory methods to assure conformance to the release specifications.

(6) Adequate provision for auditing the reliability, accuracy, precision, and performance of laboratory test procedures and laboratory instruments used.

(7) A properly identified reserve sample of the finished product (stored in the same immediate container-closure system in which the drug is marketed) consisting of at least twice the quantity necessary to perform all the required tests, except those for sterility and determination of the absence of pyrogens, and stored under conditions consistent with product labeling shall be retained for at least two years after the drug distribution has been completed or one year after the drug's expiration date, whichever is longer.

(8) Provision for retaining complete records of all laboratory data relating to each batch or lot of drug to which they apply. Such records shall be retained for at least two years after distribution has been completed or one year after the drug's expiration date, whichever is longer.

(9) Provision that animals shall be maintained and controlled in a manner that assures suitability for their intended use. They shall be identified and appropriate records maintained to determine the history of use.

(10) Provision that firms which manufacture nonpenicillin products (including certifiable antibiotic products) on the same premises or use the same equipment as that used for manufacturing penicillin products, or that operate under any circumstances that may reasonably be regarded as conducive to contamination of other drugs by penicillin, shall test such nonpenicillin products to determine whether any have become cross-contaminated by penicillin. Such products shall not be marketed if intended for use in ~~((man))~~ humans and the product is contaminated with an amount of penicillin equivalent to 0.5 unit or more of penicillin G per maximum single dose recommended in the labeling of a drug intended for parenteral administration, or an amount of penicillin equivalent to 0.5 unit or more of penicillin G per maximum single dose recommended in the labeling of a drug intended for oral use.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-100 STABILITY. There shall be written procedures for assurance of the stability of finished drug products. This stability shall be:

(1) Determined by reliable, meaningful, and specific test methods.

(2) Determined on products in the same container-closure system in which they are marketed.

(3) Determined on any dry drug product that is to be reconstituted at the time of dispensing (as directed in its labeling), as well as on the reconstituted product.

(4) Recorded and maintained in such manner that the stability data may be utilized in establishing product expiration dates.

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-120 PACKAGING AND LABELING. Packaging and labeling operations shall be adequately controlled: To assure that only those drug products that have met the standards and specifications established in their master production and control records shall

be distributed; to prevent mixups between drugs during filling, packaging, and labeling operations; to assure that correct labels and labeling are employed for the drug; and to identify the finished product with a lot or control number that permits determination of the history of the manufacture and control of the batch. An hour, day, or shift code is appropriate as a lot or control number for drug products manufactured or processed in continuous production equipment. Packaging and labeling operations shall:

(1) Be separated (physically or spatially) from operations on other drugs in a manner adequate to avoid mixups and minimize cross-contamination. Two or more packaging or labeling operations having drugs, containers, or labeling similar in appearance shall not be in process simultaneously on adjacent or nearby lines unless these operations are separated either physically or spatially.

(2) Provide for an inspection of the facilities prior to use to assure that all drugs and previously used packaging and labeling materials have been removed.

(3) Include the following labeling controls:

(a) The holding of labels and package labeling upon receipt pending review and proofing against an approved final copy by a competent and responsible individual to assure that they are accurate regarding identity, content, and conformity with the approved copy before release to inventory.

(b) The maintenance and storage of each type of label and package labeling representing different products, strength, dosage forms, or quantity of contents in such a manner as to prevent mixups and provide proper identification.

(c) A suitable system for assuring that only current labels and package labeling are retained and that stocks of obsolete labels and package labeling are destroyed.

(d) Restriction of access to labels and package labeling to authorized personnel.

(e) Avoidance of gang printing of cut labels, cartons, or inserts when the labels, cartons, or inserts are for different products or different strengths of the same products or are of the same size and have identical or similar format and/or color schemes. If gang printing is employed, packaging and labeling operations shall provide for added control procedures. These added controls should consider sheet layout, stacking, cutting, and handling during and after printing.

(4) Provide strict control of the package labeling issued for use with the drug. Such issue shall be carefully checked by a competent and responsible person for identity and conformity to the labeling specified in the batch production record. Said record shall identify the labeling and the quantities issued and used and shall reasonably reconcile any discrepancy between the quantity of drug finished and the quantities of labeling issued. All excess package labeling bearing lot or control numbers shall be destroyed. In event of any significant unexplained discrepancy, an investigation should be carried out according to WAC 360-46-060((††)) (9).

(5) Provide for adequate examination or laboratory testing of representative samples of finished products after packaging and labeling to safeguard against any errors in the finishing operations and to prevent distribution of any batch until all specified tests have been met.

(6) Provide for compliance with the Poison Prevention Packaging Act, (16 CFR Part 1700).

(7) Provide for compliance with WAC 360-46-080(2).

AMENDATORY SECTION (Amending Order 133, filed 8/4/77)

WAC 360-46-130 MASTER PRODUCTION AND CONTROL RECORDS—BATCH PRODUCTION AND CONTROL RECORDS. (1) To assure uniformity from batch to batch, a master production and control record for each drug product and each batch size of drug product shall be prepared, dated, and signed or initialed by a competent and responsible individual and shall be independently checked, reconciled, dated, and signed or initialed by a second competent and responsible individual. The master production and control record shall include:

(a) The name of the product, description of the dosage form, and a specimen or copy of each label and all other labeling associated with the retail or bulk unit, including copies of such labeling signed or initialed and dated by the person or persons responsible for approval of such labeling.

(b) The name and weight or measure of each active ingredient per dosage unit or per unit of weight or measure of the finished drug and a statement of the total weight or measure of any dosage unit.

(c) A complete list of ingredients designated by names or codes sufficiently specific to indicate any special quality characteristic; and accurate statement of the weight or measure of each ingredient regardless of whether it appears in the finished product, except that reasonable variations may be permitted in the amount of components necessary in the preparation in dosage form provided that provisions for such variations are included in the master production and control record; an appropriate statement concerning any calculated excess of an ingredient; an appropriate statement of theoretical weight or measure at various stages of processing; and a statement of the theoretical yield.

(d) A description of the containers, closures, and packaging and finishing materials.

(e) Manufacturing and control instructions, procedures, specifications special notations, and precautions to be followed.

(2) The batch production and control record shall be prepared for each batch of drug produced and shall include complete information relating to the production and control of each batch. These records shall be retained for at least two years after the batch distribution is complete or at least one year after the batch expiration date, whichever is longer. These records shall identify the specific labeling and lot or control numbers used on the batch and shall be readily available during such retention period. The batch record shall include:

(a) An accurate reproduction of the appropriate master formula record checked, dated, and signed or initialed by a competent and responsible individual.

(b) A record of each significant step in the manufacturing, processing, packaging, labeling testing, and controlling of the batch, including: Dates; individual major equipment and lines employed; specific identification of each batch of components used; weights and measures of components and products used in the course of processing; in-process and laboratory control results; and identifications of the individual(s) actively performing and the individual(s) directly supervising or checking each significant step in the operation.

(c) A batch number that identifies all the production and control documents relating to the history of the batch and all lot or control numbers associated with the batch.

(d) A record of any investigation made according to WAC 360-46-060((††)) (9).

NEW SECTION

WAC 360-46-160 VARIANCE AND PROCEDURE. The board recognizes that conditions may exist under which certain good manufacturing practice criteria would not have a practical application or would not be necessary for public safety. Licensees may request that the board issue a variance for specific requirements of WAC 360-46-040 through 360-46-150. The request must be in writing and must explain why the criteria does not apply or how the public's safety would be protected. The board will investigate and consider the request for variance and will determine whether or not a variance is contrary to public safety. Issuance of a variance shall be at the board's discretion. Any variance granted shall be limited to the particular case described in the request and shall be posted at the manufacturing location during the time it is in effect. Variances will be reviewed at least every three years and shall be subject to withdrawal or modification if the board finds the variance has resulted in actual or potential harm to the public.

WSR 88-13-094

PROPOSED RULES

**DEPARTMENT OF LICENSING
(Board of Practical Nursing)**

[Filed June 20, 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:

New	WAC 308-117-095	Documents which indicate authorization to practice nursing in Washington.
New	WAC 308-117-105	Return to active status from inactive or lapsed status.

New	WAC 308-117-410	Criteria for approved refresher course.
New	WAC 308-117-420	Scope of practice—Advisory opinions.
Amd	WAC 308-117-030	Licensure qualifications.
Amd	WAC 308-117-040	Licensing examination and passing score.
Amd	WAC 308-117-050	Release of results of examination.
Amd	WAC 308-117-090	Licensure by interstate endorsement.
Amd	WAC 308-117-100	Renewal of licenses;

that the agency will at 9:00 a.m., Wednesday, August 10, 1988, in the Chart Room, Fife Executive Inn, 5700 Pacific Highway East, Fife, WA 98424, 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, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, chapter 211, Laws of 1988.

The specific statute these rules are intended to implement is RCW 18.78.050, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, chapter 211, Laws of 1988.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1988.

Dated: June 20, 1988

By: Susan L. Boots

Executive Secretary

Assistant Program Manager

STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: WAC 308-117-030 Licensure qualifications; 308-117-040 Licensing examination and passing score; 308-117-050 Release of results of examination; 308-117-090 Licensure by interstate endorsement; 308-117-095 Documents which indicate authorization to practical nursing in Washington; 308-117-100 Renewal of licenses; 308-117-105 Return to active status from inactive or lapsed status; 308-117-410 Criteria for approved refresher course; and 308-117-420 Scope of practice—Advisory opinions.

Statutory Authority: RCW 18.78.050, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, chapter 211, Laws of 1988.

Specific Statute that Rules are Intended to Implement: RCW 18.78.050, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, chapter 211, Laws of 1988.

Summary of the Rules and Reasons Supporting the Proposed Actions: WAC 308-117-030, to provide for an interim permit for new graduates from approved practical nursing programs, as authorized by SHB 1404, chapter 211, Laws of 1988; WAC 308-117-040, to provide for an examination score of pass or fail; WAC 308-117-050, to state that examination results will not be released until a candidate's official transcript is on file, and to delete a provision relating to the release of scores; WAC 308-117-090, to provide for scores having to be a pass after October 1, 1988; WAC 308-117-095, to provide for the types of licensure documents that may be issued; WAC 308-117-100, to provide for the failure to renew licenses; WAC 308-117-105, to provide requirements for one returning to an active license status from an inactive or lapsed status; WAC 308-117-410, to provide criteria for a board-approved refresher course; and

WAC 308-117-420, to provide requirements for the issuance of advisory opinions from the board on practice questions.

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 9012, Olympia, Washington 98504, phone (206) 753-2807 comm, (206) 234-2807 scan.

Proponents: The Washington State Board of Practical Nursing.

Agency Comments or Recommendations: None.

Federal or State Court Action: These rules are not necessary to comply with a federal law or a federal or state court action.

Any Other Information that may be of Assistance in Identifying the Rules or Their Purpose: None.

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 PM 718, filed 4/1/88)

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 two 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.

(3) An interim permit (WAC 308-117-095) and a notice of eligibility for admission to the licensing examination may be issued to all new graduates from board approved practical nursing programs after the filing of a completed application, payment of the application fee, and official notification from the program certifying that the individual has satisfactorily completed all requirements for the diploma/certification. The interim permit is only issued for the first examination period for which the applicant is eligible after graduation.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-040 LICENSING EXAMINATION AND PASSING SCORE. (1) The current series of the National Council of State Board of Nursing Practical Nurse Examination (NCLEX) shall be the official examination for practical nurse licensure.

(2) The NCLEX will consist of two tests with ((a minimum passing standard score of 350 for the total examination)) the score for the total examination reported as either pass or fail.

(3) Examinations shall be conducted twice a year, in April and October.

(4) The executive secretary of the board shall negotiate with the National Council of State Boards of Nursing, Inc. (NCSBN) for the use of the NCLEX.

(5) The examination shall be administered in accord with the NCSBN security measures and contract.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-050 **RELEASE OF RESULTS OF EXAMINATION.** (1) Applicants shall be notified regarding the examination results by mail only. The results will not be released until the candidate's official transcript is on file with the board.

(2) Applicants who pass shall receive a license to practice as a licensed practical nurse provided all other requirements are met.

(3) Applicants who fail shall receive a letter of notification regarding their eligibility to retake the examination.

(4) In addition to a listing of the names of graduates indicating whether each passed or failed the examination, each practical nursing program in Washington shall receive a statistical report of the examination results of applicants from that school and a report of state and national statistics.

(5) ~~((Scores of the examination will not be released to anyone except as provided above unless release is authorized by the applicant in writing.~~

~~((6) The applicant's)) Examination results for all candidates will be maintained in ~~((his/her))~~ the application files in the division of professional licensing, department of licensing.~~

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-090 **LICENSURE BY INTERSTATE ENDORSEMENT.** ~~((+))~~ A license to practice as a licensed practical nurse in Washington may be issued without examination provided the applicant meets all the following requirements:

~~((+))~~ (1) The applicant has graduated and holds a credential from a state board approved program preparing candidates for licensure as a practical nurse or its equivalent as determined by the board.

~~((+))~~ (a) The applicant has fulfilled the minimum requirements prevailing for state board approved practical nursing programs in Washington at the time of the applicant's graduation.

~~((+))~~ (b) Applicants who take the NCLEX after October 1, 1988, shall present a score of pass. All other applicants shall present a minimum score of 350 on the state board test pool examination or NCLEX, except those applicants who were licensed after October 1, 1973, but before October 1, 1982, shall present a minimum score of 400 on the state board test pool examination.

~~((+))~~ (2) The applicant holds a valid current license to practice as a practical nurse in another state or territory.

~~((+))~~ (3) The applicant shall:

~~((+))~~ (a) Submit a completed application with the required fee. The fee is not refundable.

~~((+))~~ (b) Request the nursing education program to send directly to the board of practical nursing an official transcript verifying graduation from an approved practical nursing program. The transcript shall provide sufficient documentation to verify that statutory requirements are met.

NEW SECTION

WAC 308-117-095 **DOCUMENTS WHICH INDICATE AUTHORIZATION TO PRACTICE PRACTICAL NURSING IN WASHINGTON.** The following documents are the only documents that indicate legal authorization to practice as a practical nurse in Washington.

(1) License - Active status. A license is issued upon completion of all requirements for licensure and confers the right to use the title licensed practical nurse and its abbreviation, L.P.N., and to practice in the state of Washington.

(2) Interim permit. An interim permit may be issued to a graduate from an approved practical nursing program who has met all qualifications, has filed an application for examination, and is eligible for admission to the licensing examination.

(a) This permit expires when a license is issued or when the candidate receives first notice of failure, whichever is the earliest date. The permit is not renewable.

(b) An applicant who does not write the examination on the date scheduled shall return the permit within three days to the division of professional licensing.

(c) The interim permit authorizes the holder to perform functions of practical nursing as described in chapter 18.78 RCW. It is in violation of the law regulating the practice of practical nursing to use the title "licensed practical nurse." The title "graduate practical nurse," or its abbreviation G.P.N., may be used.

(3) Limited educational license. A limited educational license may be issued to a person who has been on inactive or lapsed status for three years or more and who wishes to return to active status (see WAC 308-117-105).

(4) Inactive license. A license issued to a practical nurse who is temporarily or permanently retired from practice. The holder of an inactive license shall not practice practical nursing in this state.

AMENDATORY SECTION (Amending Order PM 612, filed 8/27/86)

WAC 308-117-100 **RENEWAL OF LICENSES.** (1) Individuals making applications for initial license and examination, provided they meet all such requirements, will be issued a license, to expire on their ~~((next))~~ birth anniversary date.

(2) Individuals making application for initial license with the state of Washington under the interstate endorsement regulations, provided they meet all such requirements, will be issued a license, to expire on their ~~((next))~~ birth anniversary date.

(3) Issuance of license - Licensed practical nurses who complete the renewal application accurately, are practicing practical nursing in compliance with the law, and pay the renewal fee, shall be issued a license to practice. Should the licensee fail to renew his or her license prior to the expiration date, the individual is subject to the penalty fee as stated in RCW 18.78.090. If the licensee fails to renew the license within one year from date of expiration, application for renewal of license shall be made under statutory conditions then in force.

(4) A license, active or inactive, that is not renewed is considered lapsed. If the licensee fails to renew the license within three years from the expiration date, the individual must also meet the requirements of WAC 308-117-105.

(5) Illegal practice - Any person practicing as a licensed practical nurse during the time that ~~((his/her))~~ such individual's license is inactive or has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violators under the provisions of RCW 18.130.190.

NEW SECTION

WAC 308-117-105 **RETURN TO ACTIVE STATUS FROM INACTIVE OR LAPSED STATUS.** After October 1, 1988, persons on inactive and/or lapsed status for three years or more, who do not hold a current active license in any other United States jurisdiction and who wish to return to active status shall be issued a limited educational license to enroll in a board approved refresher course. Upon successful completion of the course, the individual's license shall be returned to active status.

NEW SECTION

WAC 308-117-410 **CRITERIA FOR APPROVED REFRESHER COURSE.** (1) Philosophy, purpose, and objectives.

(a) Philosophy, purpose, and objectives of the course shall be clearly stated and available in written form. They shall be consistent with the definition of practical nursing as outlined in chapter 18.78 RCW.

(b) Objectives reflecting the philosophy shall be stated in behavioral terms and describe the capabilities and competencies of the graduate.

(2) Faculty.

(a) All faculty shall be qualified academically and professionally for their respective areas of responsibility.

(b) All faculty shall be qualified to develop and implement the program of study.

(c) Faculty shall be sufficient in number to achieve the stated program objectives.

(3) Course content.

(a) The course content shall consist of a minimum of sixty hours of theory content and one hundred twenty hours of clinical practice.

(b) The course content, length, methods of instruction, and learning experiences shall be consistent with the philosophy and objectives of the course. Outlines and descriptions of all learning experiences shall be available in writing.

(c) The theory course content shall include, but not be limited to, a minimum of sixty hours in current basic concepts of:

- (i) Nursing process;
- (ii) Pharmacology;
- (iii) Review of the concepts in the areas of:
 - (A) Practical nursing today including legal expectations;
 - (B) Basic communications and observational practices needed for identification, reporting, and recording patient needs; and
 - (C) Basic physical, biological, and social sciences necessary for practice; and
- (iv) Review and updating of practical nursing knowledge and skills to include, but not be limited to, concepts of fundamentals, medical/surgical, parent/child, geriatric, and mental health nursing.
- (d) The clinical course content shall include a minimum of one hundred twenty hours of clinical practice in the area(s) listed in (c) of this subsection. Exceptions shall be justified to and approved by the board.
- (4) Evaluation.
 - (a) Evaluation methods shall be used to measure the student's achievement of the stated theory and clinical objectives.
 - (b) The course shall be periodically evaluated by faculty and students.
- (5) Admission requirements.
 - (a) Requirements for admission shall be available in writing.
 - (b) All students shall hold a current valid practical nurse license or a limited educational license approved by the board.
- (6) Records.
 - (a) Evidence that the student has successfully completed the course and met the stated objectives shall be kept on file.
 - (b) The refresher course provider shall submit a certification of successful completion of the course to the board.
- (7) Refresher courses taken outside of the state of Washington shall be reviewed individually for approval by the board prior to starting the course.
- (8) Approval of refresher courses shall be requested and approved in advance as directed by the board.

NEW SECTION

WAC 308-117-420 SCOPE OF PRACTICE—ADVISORY OPINIONS. (1) The board may issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners, and consumers concerning the practice of practical nursing. Such questions must be presented in writing to the office of the board.

(2) Questions may be referred to a committee of the board. Upon such referral, the committee shall develop a draft response which shall be presented to the full board at a public meeting for ratification, rejection, or modification. The committee may, at its discretion, consult with health care practitioners for assistance in developing its draft response.

(3) If the board issues an opinion on a given issue, such opinion shall be provided to the requesting party and shall be included in the board minutes.

(4) Each opinion issued shall include a clear statement to the effect that:

(a) The opinion is advisory and intended for the guidance of the requesting party only; and

(b) The opinion is not legally binding and does not have the force and effect of a duly promulgated regulation or a declaratory ruling by the board.

(5) In no event shall this section be construed to supersede the authority of the board to adopt rules related to the scope of practice nor shall it be construed to restrict the ability of any person to propose a rule or to seek a declaratory judgment from the board.

WSR 88-13-095
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed June 21, 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 National Pollutant Discharge Elimination System Permit program, chapter 173-220 WAC;

that the agency will at 2:00 p.m., Tuesday, July 26, 1988, in the Eastern Washington University, Spokane Center, West 705 First, Spokane, WA, and at 7:00 p.m., Thursday, July 28, 1988, North Seattle Community College, Lecture Hall 1231, 9600 College Way North, Seattle, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 6, 1988.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 90.48 RCW and RCW 90.54.020.

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

Dated: June 20, 1988
 By: Phillip C. Johnson
 Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Amendment to rules regarding the National Pollutant Discharge Elimination System Permit program, chapter 173-220 WAC.

Description of Purpose: To update requirements for permit conditions and administrative procedures for the National Pollutant Discharge Elimination System. This program regulates discharge of pollutants to waters of the state.

Statutory Authority: Chapter 90.48 RCW and RCW 90.54.020.

Summary of Rule: WAC 173-220-030, update and add definitions; 173-220-040, update application requirements; 173-220-045, clarify procedures for issuing general permits; 173-220-050, expand required contents of public notices and enable increased circulation of public notices; 173-220-060, expand requirement for fact sheet preparation to include all draft permit determinations and specify additional contents for fact sheets; 173-220-070, change requirements for notice to other government agencies; 173-220-080, clarify procedures for providing public access to records; 173-220-090 and 173-220-100 clarify procedures for public hearings; 173-220-130, update and expand requirements for effluent limitations (enable limits based on whole effluent toxicity, best management practices, and dangerous waste rules; allow modified limits for selected water treatment plants); 173-220-140, clarify procedures for compliance schedules; 173-220-150, update permit terms and conditions including grounds for permit modification or revocation and industrial pretreatment requirements for publicly owned treatment works; 173-220-180, update procedures for renewing permits and change reapplication requirements; 173-220-190, clarify grounds for permit modification or revocation; 173-220-210, update and clarify monitoring and reporting requirements for permittees; 173-220-220, delete section on underground injection control; and 173-220-225, update appeals procedures.

Reasons Supporting Proposed Action: The proposed amendments will remove some inconsistencies between

state requirements and federal regulations governing NPDES permits. These changes will enable the department to reapply to the U.S. Environmental Protection Agency for authority to issue general permits. (General permits cover a class of similar dischargers, in lieu of requiring individual permits.) General permit authority will simplify permitting procedures for the agency and dischargers who are eligible for coverage under general permits. Enhanced public notification efforts in the permitting process will implement requirements of the Puget Sound water quality management plan. Amendments to chapter 90.54 RCW necessitate modifying effluent limitations for selected municipal water treatment plants. Proposed requirements for monitoring and setting effluent limitations will clarify the department's authority and procedures per recent amendments to chapter 90.48 RCW.

State Environmental Policy Act: The Department of Ecology has filed a determination of nonsignificance with respect to the proposed amendment to WAC 173-220-130. The proposal is to allow modified effluent limitations or standards adopted pursuant to RCW 90.54.020 (3)(b) for municipal water treatment plants located on the Chehalis, Cowlitz, Columbia, Yakima and Skagit rivers.

Agency Personnel Responsible for Drafting: Janice Gedlund, Washington State Department of Ecology, Water Quality Program, Mailstop PV-11, Olympia, WA 98504, phone (206) 438-7033.

Implementation and Enforcement: Marc Horton, Deputy Director, Operations and Enforcement, Washington State Department of Ecology, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule: Department of Ecology, state government.

Agency Comments: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: 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 proposal calls for increased public notification requirements which are decided by the department on a case-by-case basis. Expanded public notice requirements may increase a permittee's publishing costs by approximately \$30-\$200 once every five years (when a permit is renewed). We expect that public notification for minor permits (in many cases, held by small businesses) will not require the same level of effort and expense as for more significant dischargers. Several of the proposed circulation methods can be accomplished at little or not cost to dischargers.

Additionally, the proposed change in reapplication requirements may have a minimal economic impact on some dischargers. Currently, some permittees are allowed to reapply by sending a letter to the department. The proposed amendment would require completion of reapplication forms required under federal regulations.

Applicants may have to provide more information than previously required, including data on production levels and effluent characteristics.

The amount of information and associated costs of obtaining it varies by industrial category. The wastewater analyses required for renewing a permit (once every five years) may range in price from under \$100 (for simple analyses) to \$1,000 (for very complex effluents). In accordance with federal regulations, ecology will allow an exemption from the requirement to test toxic pollutants for businesses with gross total annual fees averaging less than \$100,000 per year. As a result, the proposed change in reapplication requirements will have no impact on the smallest businesses holding permits.

In conclusion, it is judged that the proposal satisfies the intent of the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order DE 74-1, filed 2/15/74)

WAC 173-220-010 PURPOSE. The purpose of this chapter is to establish a state permit program, applicable to the discharge of pollutants and other wastes and materials to the ((navigable)) surface waters of the state, operating under state law as a part of the National Pollutant Discharge Elimination System (NPDES) created by section 402 of the Federal Water Pollution Control Act (FWPCA). Permits issued under this chapter are designed to satisfy the requirements for discharge permits under both section 402(b) of the FWPCA and chapter 90.48 RCW.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-020 PERMIT REQUIRED. No pollutants ((or other wastes or substances)) shall be discharged ((directly)) to any ((navigable)) surface water of the state from a point source, except as authorized by an individual or general permit issued pursuant to this chapter.

AMENDATORY SECTION (Amending Order DE 84-19, filed 5/11/84)

WAC 173-220-030 DEFINITIONS. For purposes of this chapter, the following definitions shall be applicable:

((1)) "Department" means department of ecology.

((2)) "Director" means the director of the department of ecology or his authorized representative.

((3)) "Administrator" means the administrator of the United States Environmental Protection Agency.

((4)) "Regional administrator" means the regional administrator of Region X of the Environmental Protection Agency (EPA).

((5)) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

((6)) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. This term does not include sewage from vessels within the meaning of section 312 of the FWPCA nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

((7)) "Navigable waters of the state" means all navigable waters as defined in section 502 of the FWPCA within the boundaries of the state such as lakes, rivers, ponds, streams, inland waters, ocean, bays, estuaries, sounds and inlets.

((8)) "Person" includes any political subdivision, local, state, or federal government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(9) "Discharge of pollutant" and the term "discharge of pollutants" each means (a) any addition of any pollutant or combination of pollutants to navigable waters of the state from any point source, (b) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source, other than a vessel or other floating craft which is being used as a means of transportation:

(10) "Major discharger" means any discharger appearing on the list of major dischargers appearing in the annual state-EPA agreement.

(11) "Combined waste treatment facility" means any publicly owned waste treatment facility in which the maximum monthly average influent from any one industrial category, or categories producing similar wastes, constitutes over eighty-five percent of the design load for biochemical oxygen demand or suspended solids. Each single industrial category must contribute a minimum of ten percent of the applicable load.)

(1) "Administrator" means the administrator of the United States Environmental Protection Agency.

(2) "Combined waste treatment facility" means any publicly owned waste treatment facility in which the maximum monthly average influent from any one industrial category, or categories producing similar wastes, constitutes over eighty-five percent of the design load for biochemical oxygen demand or suspended solids. Each single industrial category must contribute a minimum of ten percent of the applicable load.

(3) "Department" means department of ecology.

(4) "Director" means the director of the department of ecology or his/her authorized representative.

(5) "Discharge of pollutant" and the term "discharge of pollutants" each means (a) any addition of any pollutant or combination of pollutants to surface waters of the state from any point source, (b) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source, other than a vessel or other floating craft which is being used as a means of transportation.

(6) "Discharger" means owner or operator of any facility or activity subject to regulation under the NPDES program.

(7) "Domestic wastewater" means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration or surface waters as may be present.

(8) "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.

(9) "Effluent limitation" means any restriction established by the state or administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into surface waters of the state.

(10) "FWPCA" means the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251 et seq.

(11) "General permit" means an NPDES permit which covers multiple dischargers of a point source category within a designated geographical area, in lieu of individual permits being issued to each discharger.

(12) "Individual permit" means a permit for a single point source or a single facility.

(13) "Major discharger" means any discharger classified as such by the administrator in conjunction with the director and published in the annual state-EPA agreement.

(14) "Minor discharger" means any discharger not designated as major or covered under a general permit.

(15) "NPDES" means the National Pollutant Discharge Elimination System.

(16) "Permit" means an authorization, license, or equivalent control document issued by the director to implement this chapter.

(17) "Person" includes any political subdivision, local, state, or federal government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(18) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(19) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. This term does not include sewage from vessels within the meaning of section 312 of the FWPCA nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

(20) "Principal executive officer or ranking elected official" means the city manager, public works director, chief engineer, general manager of a utility district, department or agency director or regional administrator, commanding officer, county executive, chairperson of county council, chairperson of utility district, or mayor. This term applies to a representative of a municipality, state, federal or other public entity responsible for collecting, treating, and disposing of domestic wastewater.

(21) "Regional administrator" means the regional administrator of Region X of the Environmental Protection Agency (EPA) or his/her authorized representative.

(22) "Responsible corporate officer" means the corporate chief executive official, president, secretary, or treasurer who has direct responsibility over the entire operation of the facility to be permitted and who has authority to commit sufficient corporate resources to assure compliance with the terms of the permit.

(23) "Surface waters of the state" means all waters defined as "waters of the United States" in 40 CFR 122.2 that are within the boundaries of the state of Washington. This includes lakes, rivers, ponds, streams, inland waters, wetlands, ocean, bays, estuaries, sounds, and inlets.

(24) "Toxicity" means the ability to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations in any organism or its offspring upon exposure, ingestion, inhalation, or assimilation.

(25) "Water quality standards" means the state of Washington's water quality standards for surface waters of the state, which are codified in chapter 173-201 WAC.

AMENDATORY SECTION (Amending Order 86-03, filed 3/4/86)

WAC 173-220-040 APPLICATION FOR PERMIT. (1) Any person presently discharging pollutants to ((navigable)) surface waters of the state must file an application with the department on a form prescribed by the department. For the purpose of satisfying the requirements of this subsection, any completed application filed with the Environmental Protection Agency prior to the approval by the administrator under section 402(b) of the FWPCA of this state permit program shall constitute a filing with the department.

(2) Any person proposing to commence a discharge of pollutants to ((navigable)) surface waters of ((this)) the state must file an application with the department on a form prescribed by the department, (a) no less than ((+80)) one hundred eighty days in advance of the date on which it is desired to commence the discharge of pollutants, or (b) in sufficient time prior to commencement of the discharge of pollutants to insure compliance with the requirements of section 306 of the FWPCA and any other applicable water quality standards or effluent standards and limitations.

(3) The applicant must pay any applicable fees required pursuant to ((Wastewater discharge permit fees, chapter 173-222 WAC)) RCW 90.48.610.

(4) The requirement for permit application will be satisfied if the discharger files:

(a) ((A complete refuse act application, or
(b)) A complete application form which is appropriate for the type, category, or size of discharge per 40 CFR 122.21; or
(c)) (b) A complete ((notification-of)) request for coverage by a general permit; and
(d)) (c) Any additional information required by the department pertaining to pollutant discharge. Such information may include, but is not limited to, chemical, physical, or biological information characterizing waste streams, treatment or control systems, effluents, receiving waters, and receiving water sediments or biota; and economic data to aid in the determination of reasonableness of treatment requirements or alternatives.

(5) The application form shall bear a certification of correctness to be signed:

- (a) In the case of corporations, by a responsible corporate officer.
- (b) In the case of a partnership, by a general partner.

(c) In the case of sole proprietorship, by the proprietor.

(d) In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.

(6) Applications for permits for domestic wastewater facilities that are either owned or operated by, or under contract to, a public entity shall be submitted by the public entity.

(7) No discharge of ((wastes)) pollutants into the ((navigable)) surface waters of the state is authorized until such time as ((an application has been approved and)) a permit has been issued consistent with the terms and conditions of this chapter.

AMENDATORY SECTION (Amending Order 86-03, filed 3/4/86)

WAC 173-220-045 GENERAL PERMITS. (1) The director may issue general permits to cover categories of dischargers as described under subsection (2) of this section. The area shall correspond to existing geographic or political boundaries, such as:

(a) Designated planning areas under section 208 or 303 of the FWPCA;

(b) Sewer districts or other special purpose districts;

(c) City, county or state political boundaries;

(d) State or county highway systems;

(e) Standard metropolitan statistical areas as defined by the Federal Office of Management and Budget;

(f) Urbanized areas as designated by the Bureau of the Census; or

(g) Any other appropriate division or combination of boundaries.

(2) General permits may be written to cover the following within a described area:

(a) ((Separate)) Storm ((sewers)) water point sources; or

(b) Categories of point sources which meet all of the following requirements:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations(;) or operating conditions, ((or)) and require similar monitoring; and

(iv) In the opinion of the director are more appropriately controlled under a general permit than under individual permits.

(3) General permits may be issued, modified, revoked and reissued, or terminated in accordance with the other provisions of this chapter.

(4) The director may require any discharger authorized by a general permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to the following:

(a) The discharger is not in compliance with conditions of the general permit;

(b) A change occurs in the technology or practices for control or abatement of pollutants applicable to the point source;

(c) Effluent limitation guidelines are promulgated for point sources covered by the general permit;

(d) A water quality management plan containing requirements applicable to such point sources is approved;

(e) Effluent limitations more stringent than those contained in a general permit are necessary to meet water quality standards; ((or))

(f) Information is obtained which indicates that cumulative effects on the environment from dischargers covered under the general permit are unacceptable; or

(g) Other causes listed in ((40 CFR Part 122.62, 122.64, or 122.28 (b)(2)(A), as promulgated May 19, 1980)) WAC 173-220-150 (1)(d).

(5) In cases where the director requires any ((owner or operator)) discharger to apply for an individual permit, the ((owner or operator)) discharger must be notified in writing that an individual permit application is required. This notice shall include a statement of why an individual permit is being required, an application form and a time limit for submitting the application.

(6) Any interested person may petition the director to require a discharger authorized by a general permit to apply for and obtain an individual permit.

(7) Any discharger authorized by a general permit may request to be excluded from coverage by the general permit by applying for an individual permit. The ((owner or operator)) discharger shall submit to the director an application as described in WAC 173-220-040, with reasons supporting the request. The director shall either issue an individual permit or deny the request with a statement explaining the reason for denial.

((+7)) (8) When an individual permit is issued to a discharger otherwise subject to a general permit, the applicability of the general

permit to that permittee is automatically terminated on the effective date of the individual permit.

((+8)) (9) Following issuance by the department of a general permit all dischargers who desire to be covered by the general permit shall notify the department on a form prescribed by the department. Unless the department responds in writing to the notification, coverage of a discharger by a general permit will automatically commence on the thirty-first day following ((the later of:

(a)) the end of the thirty-day comment period required by WAC 173-220-050(2)((or

(b) Receipt by the department of a completed notification of coverage)).

((+9)) (10) Any previously issued individual permit shall remain in effect until terminated in writing by the department, except that continuation of an expired individual permit (pursuant to WAC 173-220-180(5)), shall terminate upon coverage by the general permit.

((+10)) (11) Where the department has determined that a discharger should not be covered by a general permit, it shall respond in writing within ((the time specified within subsection (8) of this section)) thirty days, to a ((notification of)) request for coverage stating the reason(s) why coverage cannot become effective and any actions needed to be taken by the discharger in order for coverage by the general permit to become effective.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-050 PUBLIC NOTICE. (1) Public notice of every draft permit determination ((or notification of)) regarding an individual permit or general permit, and request for coverage by a general permit, shall be circulated in a manner designed to inform interested and potentially ((interested)) affected persons of the proposed discharge and of the proposed determination to issue or deny a permit for the proposed discharge((Circulation of public notice shall include at least the following)), as follows:

(a) For individual permits, notice shall be circulated within the geographical area((s)) of the proposed discharge; ((for individual permits)) such circulation may include any or all of the following, as directed by the department:

(i) Posting for a period of thirty days in the post office, public library, and public places of the municipality nearest the premises of the applicant in which the effluent source is located; ((or))

(ii) Posting for a period of thirty days near the entrance of the applicant's premises and nearby places; ((or))

(iii) Publishing by the applicant, at his own cost within such time as the director shall prescribe, through a notice form provided by the department, in major local newspapers ((or periodicals or, if appropriate, in a daily newspaper)) of general circulation serving the area in which the discharge occurs: PROVIDED, That if an applicant fails to publish notice within fifteen days of the time prescribed by the director, the department may publish the notice and bill the applicant for the cost of publication;

(iv) Publishing by the applicant of paid advertisements;

(v) Publishing by the department of news releases or newsletter articles.

(b) For general permits, such circulation shall include the following:

(i) Publishing by the department of a notice of intent to issue a general permit in a major local newspaper ((or newspapers)) of general circulation in each affected area; and

(ii) Posting or publishing by the applicant of a ((notice of)) request for coverage by a general permit in accordance with (a)(i), (ii), ((or))

(iii) ((in paragraph (a)), (iv), or (v) of this subsection, as directed by the department.

(c) Notice shall be mailed to any person ((or group)) upon request; and

(d) The department shall add the name of any person ((or group)) upon request to a mailing list to receive copies of notices within the state or within a certain geographical area.

(2) The department shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written views on ((the)) a draft permit determination((s)) or a ((notification of)) request for coverage by a general permit. All written comments submitted during the thirty-day comment period shall be retained by the department and considered in the formulation of its final determination((s)) with respect to the application. The period for comment may be extended at the discretion of the department.

(3) The contents of the public notice shall ~~((include))~~, at ~~((least))~~ a minimum, summarize the following:

(a) Name, address, phone number of agency issuing the public notice;

(b) Except when unknown~~((:))~~ in the case of general permit issuance, name and address of each applicant, and if different, of the facility or activity to be regulated;

(c) ~~((Brief description of))~~ Each applicant's activities or operations which result in a discharge (e.g., municipal waste treatment ~~((plant))~~, steel manufacturing, drainage from mining activities);

(d) Except in the case of general permit issuance, name of waterway to which each discharge is made and ~~((a short description of))~~ the location of each discharge on the waterway, indicating whether such discharge is a new or an existing discharge;

(e) ~~((A statement of))~~ The tentative determination to issue or deny a permit for the discharge;

(f) Where coverage by a general permit is replacing a current individual permit, notice of termination of the individual permit;

(g) The estimated effects of the tentative decision on water quality, other aspects of the environment, and the public;

(h) Where a draft permit proposes effluent limitations which are less stringent than those in the discharger's preceding permit, the following:

(i) Reasons for such proposal; and

(ii) Any proposed measures for mitigation, including those required of the discharger to reduce the production of pollutants per unit of product or population equivalent (for example, application of New Source Performance Standards established under Section 306 of the FWPCA to the increment of increased discharge).

Examples of less stringent pollutant discharge limitations include alternative effluent limitations granted to certain domestic wastewater facilities under WAC 173-221-050 (1) through (4); and limitations which allow a greater mass loading of pollutants to be discharged than allowed in the previous permit, due to increases in production or population;

~~((A brief description of))~~ (i) The procedures for the formulation of final determinations, including the thirty-day comment period required by subsection (2) of this section and any other means by which interested persons may ~~((influence or))~~ comment upon those determinations; and

~~((g))~~ (j) Address and phone number of state premises at which interested persons may obtain further information.

(4) The department shall provide copies of permit applications, draft permit determinations, ~~((notifications of))~~ requests for coverage, and general permits ~~((will be provided to any person))~~ upon request ~~((by the department))~~.

(5) The department shall notify the applicant and persons who have submitted written comments or requested notice of the final permit decision. This notification shall include reference to the procedures for contesting the decision.

AMENDATORY SECTION (Amending Order 86-03, filed 3/4/86)

WAC 173-220-060 FACT SHEETS. (1) ~~((For every major discharger and general permit))~~ The department shall prepare ~~((and, following public notice, shall send, upon request to any person,))~~ a fact sheet ~~((with respect to the))~~ for every draft permit determination ~~((described in the public notice. The contents of))~~ regarding major dischargers, minor dischargers, and general permits. Such fact sheets shall ~~((include at least the))~~, at a minimum, summarize the following ~~((information))~~:

(a) ~~((A brief description of))~~ The type of facility or activity which is the subject of the application;

(b) ~~((A sketch or detailed description of))~~ The location of the discharge ~~((described in the application))~~ in the form of a sketch or detailed description;

(c) ~~((A quantitative description))~~ The type and quantity of the discharge ~~((described in the application which includes))~~, including at least the following:

(i) The rate or frequency of the proposed discharge~~((, if the discharge is continuous, the average daily flow in gallons per day or million gallons per day));~~

(ii) For thermal discharges ~~((subject to the jurisdiction of the department)),~~ the average summer and winter temperatures ~~((in degrees Fahrenheit));~~ and

(iii) The average ~~((daily))~~ discharge in pounds per day, or other appropriate units, of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under

RCW 90.48.010, 90.52.040, 90.54.020 and sections 301, 302, 306, or 307 of the FWPCA and regulations published thereunder;

(d) ~~((Tentative determination of))~~ The conditions in ~~((a))~~ the proposed permit;

(e) ~~((A brief summary of))~~ The ~~((basis))~~ legal and technical grounds for the draft permit determination, including an explanation of how conditions meet both the technology-based and water quality-based requirements of the FWPCA and chapters 90.48, 90.52, and 90.54 RCW;

(f) ~~((A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and))~~ The effluent standards and limitations applied to the proposed discharge; ~~((and))~~

(g) ~~((A fuller description of))~~ The applicable water quality standards, including identification of the uses for which receiving waters have been classified;

(h) How the draft permit addresses use or disposal of residual solids generated by wastewater treatment;

(i) For major permits, the basis for including or excluding limitations on toxic contaminants, including an explanation of how the draft permit will result in reducing and eventually eliminating the toxicity of the effluent;

(j) The basis for proposed monitoring requirements; and

(k) The procedures for the formulation of final determinations (in more detailed form than that given in the public notice) including:

(i) The ~~((30))~~ thirty-day comment period required by WAC 173-220-050(2);

(ii) Procedures for requesting a public hearing and the nature thereof; and

(iii) Any other procedures by which the public may participate in the formulation of the final determinations.

(2) The department shall send a fact sheet to the applicant and, upon request, to any other person.

(3) The department shall add the name of any person ~~((or group))~~ upon request to a mailing list to receive copies of fact sheets.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-070 NOTICE TO OTHER GOVERNMENT AGENCIES. The department shall notify other appropriate government agencies of each draft permit determination or ~~((notification of))~~ request for coverage and shall provide such agencies an opportunity to submit their written views and recommendations. Such notification shall include the following:

(1) Unless the regional administrator has agreed to waive review, transmission of an application, fact sheet ~~((if applicable (WAC 173-220-060))),~~ and draft permit to the regional administrator for comment or objection within thirty days (ninety days for general permits), or a longer period if requested up to a maximum of ninety days.

(2) At the time of issuance of public notice pursuant to WAC 173-220-050, transmission of the public notice to any other states whose waters may be affected by the issuance of a permit. Each affected state shall be afforded an opportunity to submit written recommendations to the department and to the regional administrator which the department may incorporate into the permit if issued. Should the department fail to incorporate any written recommendations thus received, it shall provide to the affected state or states (and to the regional administrator) a written explanation of its reasons for failing to accept any of the written recommendations.

(3) ~~((At the time of issuance of public notice pursuant to WAC 173-220-050))~~ Unless waived by the respective agency, the public notice shall be sent to the appropriate district engineer of the Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the state departments of fisheries, natural resources, wildlife, and social and health services, the archaeology and historic preservation office, the agency responsible for the preparation of an approved plan pursuant to section 208(b) of the FWPCA, and any other applicable government agencies.

(4) A copy of any written agreement between the department and ~~((a district engineer dispensing with requirements of the immediately preceding))~~ an agency identified in subsection (3) of this section which waives the receipt of public notices shall be forwarded to the regional administrator and shall be made available to the public for inspection and copying.

(5) Copies of public notices shall be mailed to any other federal, state, or local agency, or any affected country, upon request. Such agencies shall have an opportunity to respond, comment, or request a

public hearing pursuant to WAC 173-220-090. ~~((Such agencies shall include at least the agency responsible for the preparation of an approved plan pursuant to section 208(b) of the FWPCA.))~~

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-080 PUBLIC ACCESS TO INFORMATION.

(1) ~~((Any NPDES forms or any public comment upon those forms shall be available to the public for inspection and copying. The department, at its discretion, may also make available to the public, any other records, reports, plans, or information obtained by the state, pursuant to its participation in the permit process. Nothing herein shall modify the requirements of chapter 42.17 RCW, where applicable)) In accordance with chapter 42.17 RCW, the department shall make records relating to NPDES permits available to the public for inspection and copying.~~

(2) The department shall protect any information (other than information on the effluent) contained in ~~((such form, or other records, reports, or plans))~~ its NPDES permit records as confidential upon a showing by any person that such information, if made public, would divulge methods of processes entitled to protection as trade secrets of such person. ~~((If, however, the information being considered for confidential treatment is contained in a form, the department shall forward such information to the regional administrator for his concurrence in any determination of confidentiality. Upon arriving at his determination as to confidentiality, the regional administrator shall communicate to the department the decision. If such determination is not to concur with withholding of such information, the department and the regional administrator shall then make available to the public, upon request, that information determined not to constitute trade secrets.))~~

(3) Any information accorded confidential status, whether or not contained in ~~((a))~~ an application form, shall be disclosed, upon request, to the regional administrator ~~((, or his authorized representative, who shall maintain the disclosed information as confidential.))~~

(4) The department shall provide facilities for the inspection of information relating to ~~((forms shall be provided by the department))~~ NPDES permits and shall insure that employees honor requests for such inspection promptly without undue requirements or restrictions. The department shall either (a) insure that a machine or device for the copying of papers and documents is available for a reasonable fee, or (b) otherwise provide for or coordinate with copying facilities or services such that requests for copies of nonconfidential documents may be honored promptly.

AMENDATORY SECTION (Amending Order DE 83-14, filed 5/4/83)

WAC 173-220-090 PUBLIC HEARINGS.

The applicant, any affected state, any affected interstate agency, any affected country, the regional administrator, or any interested agency ~~((;))~~ or person ~~((, or group of persons))~~ may request a public hearing with respect to a draft permit determination or ~~((notification of))~~ request for coverage by a general permit. Any such request for a public hearing shall be filed within the ~~((next 30 day))~~ thirty-day period prescribed in WAC 173-220-050(2) and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The department shall hold a hearing if ~~((, on the basis of requests or any other information,))~~ it determines there is a significant public interest. Instances of doubt will be resolved in favor of holding the hearing. Any hearing brought pursuant to this subsection shall be held at a time and place deemed appropriate by the department.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-100 PUBLIC NOTICE OF PUBLIC HEARINGS.

(1) Public notice of any hearing held pursuant to WAC 173-220-090 ~~((above))~~ shall be circulated at least as widely as was the notice pursuant to WAC 173-220-050. Procedures for the circulation of public notice for hearings held under WAC 173-220-090 shall include at least the following:

(a) Notice shall be published in at least one major local newspaper of general circulation within the geographical area of the discharge;

(b) Notice shall be sent to all persons and government agencies ~~((which))~~ who received a copy of the notice pursuant to WAC 173-220-050 or the fact sheet;

(c) Notice shall be mailed to any person ~~((or group))~~ upon request; and

(d) Notice shall be effected pursuant to ~~((subparagraphs))~~ (a) and (c) of this ~~((paragraph))~~ subsection at least thirty days in advance of the hearing.

(2) The contents of public notice of any hearing held in pursuant to WAC 173-220-090 shall include at least the following:

(a) Name, address, and phone number of agency holding the public hearing;

(b) A ~~((brief))~~ reference to the public notice issued pursuant to WAC 173-220-050, including identification number and date of issuance;

(c) ~~((Information regarding))~~ The time and location for the hearing;

(d) The purpose of the hearing;

(e) Address and phone number of premises at which interested persons may obtain information;

(f) ~~((A brief description of))~~ The nature of the hearing;

(g) ~~((A concise statement of))~~ The issues raised by the persons requesting the hearing, ~~((when applicable and except in the case of general permit issuance.))~~ and any other appropriate issues which may be of interest to the public;

(i) Except when unknown in the case of general permit determinations, the name and address of each applicant whose proposed discharge will be considered at the hearing;

(ii) Except when unknown in the case of general permit determinations, the name of waterway to which each discharge is made and ~~((a short description of))~~ the location of each discharge on the waterway.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-120 PROHIBITED DISCHARGES. No permit issued by the department shall authorize any person to:

(1) Discharge any radiological, chemical or biological warfare agent or high-level radioactive waste into ~~((navigable))~~ surface waters of the state;

(2) Discharge any pollutants which the secretary of the army acting through the chief, corps of engineers, finds would substantially impair anchorage and navigation;

(3) Discharge any pollutant to which the regional administrator, not having waived his/her right to object pursuant to section 402(e) of the FWPCA, has objected in writing pursuant to section 402(d) of the FWPCA;

(4) Discharge from a point source any pollutant which is in conflict with the plan or amendment thereto approved pursuant to section 208(b) of the FWPCA;

(5) Discharge any pollutant subject to a toxic pollutant discharge prohibition under section 307 of FWPCA.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-130 EFFLUENT LIMITATIONS, WATER QUALITY STANDARDS AND OTHER REQUIREMENTS FOR PERMITS. (1) Any permit issued by the department shall apply and insure compliance with all of the following, whenever applicable:

(a) All known, available, and reasonable methods of treatment required under RCW 90.52.040, 90.54.020 (3)(b), and 90.48.520; including effluent limitations established under sections 301, 302, 306, and 307 of the FWPCA. The effluent limitations shall not be less stringent than those based upon the treatment facility design efficiency contained in approved engineering plans and reports or approved revisions thereto. The effluent ~~((limits))~~ limitations shall reflect any seasonal variation in industrial loading. Modifications to technology-based effluent limitations for specific discharge categories are as follows:

(i) For combined waste treatment facilities, the effluent limitations for biochemical oxygen demand or suspended solids may be adjusted upwards to a maximum allowed by applying effluent limitations pursuant to sections 301(b)(1)(B) ~~((or 301(h)))~~ of the FWPCA to the domestic portion of the influent and effluent limitations pursuant to sections 301(b)(1)(A)(i), 301(b)(2)(A), and 301(b)(2)(E) of the FWPCA or standards of performance pursuant to section 306 of the FWPCA to the industrial portion of the influent: PROVIDED, That the following additional condition is met:

Fecal coliform levels shall not exceed a monthly ~~((average))~~ geometric mean of 200 organisms per 100 ml with a maximum weekly ~~((average))~~ geometric mean of 400 organisms per 100 ml ~~((, unless a waiver is granted pursuant to section 301(h) of the FWPCA.))~~

(ii) For municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river, the effluent limitations shall be adjusted, in accordance with RCW 90.54.020 (3)(b), to reflect credit for substances removed from the plant intake water if:

(A) The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and

(B) The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.

(b) Any more stringent limitation, including those necessary to:

(i) ~~((Necessary to))~~ Meet water quality standards, treatment standards or schedules of compliance established pursuant to any state law or regulation under authority preserved to the state by section 510 of the FWPCA; or

(ii) ~~((Necessary to))~~ Meet any federal law or regulation other than the FWPCA or regulations thereunder; or

(iii) ~~((Required to))~~ Implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to section 303(d) and incorporated in the continuing planning process approved under section 303(e) of the FWPCA and any regulations and guidelines issued pursuant thereto;

(iv) ~~((Necessary to))~~ Prevent or control pollutant discharges from plant site runoff, spillage or leaks, sludge or waste disposal, or ~~((raw))~~ materials handling storage; and

(v) ~~((Necessary to provide all known, available and reasonable methods of treatment))~~ Meet the permit by rule provisions of the state dangerous waste regulation, WAC 173-303-802 (4) or (5).

(c) Any more stringent legal applicable requirements necessary to comply with a plan approved pursuant to section 208(b) of the FWPCA; and

(d) Prior to promulgation by the administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307 of the FWPCA, such conditions as the department determines are necessary to carry out the provisions of the FWPCA.

(2) In any case where an issued permit applies the effluent standards and limitations described in ~~((subparagraph))~~ subsection (1)(a) ~~((of paragraph (1)))~~ of this section, the department shall make a finding that any discharge authorized by the permit will not violate applicable water quality standards.

(3) Permit effluent limitations may include, but are not limited to:

(a) Limits or prohibitions on the discharge of specific chemicals; and
(b) Limits on the toxicity of the effluent as determined by biological methods; and

(c) Best management practices.

(4) In the application of effluent standards and limitations, water quality standards and other legally applicable requirements pursuant to ~~((paragraphs))~~ subsections (1) and (2) ~~((hereof))~~ of this section, each issued permit shall specify:

(a) For industrial wastewater facilities, average monthly and maximum daily quantitative ~~((in terms of weight))~~ concentration and mass limitations, or other such appropriate limitations for the level of pollutants and the authorized discharge;

(b) For domestic wastewater facilities, average weekly and monthly quantitative concentration and mass limitations, or other such appropriate limitations for the level of pollutants and the authorized discharge; and

(c) If a dilution zone is authorized within which water quality standards are modified, the dimensions of such dilution zone.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-140 SCHEDULES OF COMPLIANCE. (1) ~~((In addition to the application of the effluent standards and limitations, water quality standards, and other legally applicable requirements, all pursuant to WAC 173-220-130 (1), (2);))~~ The department shall establish schedules and permit conditions as follows to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements:

(a) With respect to any discharge which is found not to be in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in WAC 173-220-130, the permittee shall be required to take specific steps to achieve compliance with the following:

~~((1))~~ Any legally applicable schedule of compliance contained in:

~~((1))~~ (i) Section 301 of FWPCA;

~~((1))~~ (ii) Applicable effluent standards and limitations;

~~((1))~~ ~~((If more stringent;))~~ (iii) Water quality standards; ~~((or))~~ and ~~((1))~~ ~~((If more stringent, legally))~~ (iv) Applicable requirements listed in WAC 173-220-130, 173-220-150, and 173-220-210;

(b) Schedules of compliance, shall set forth the shortest, reasonable period of time, to achieve the specified requirements, such period to be consistent with the guidelines and requirements of the FWPCA.

(2) In any case where the period of time for compliance specified in ~~((paragraph))~~ subsection (1)(a) of this section exceeds one year, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement; however, in no event shall more than one year elapse between interim dates. If the time necessary for completion of the interim requirement (such as construction of a treatment facility) is more than one year and is not readily divided into stages of completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement.

(3) Either before or up to fourteen days following each interim date and the final date of compliance, the permittee shall provide the department with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(4) On the last day of the months of February, May, August, and November, the department shall transmit to the regional administrator a list of all instances ~~((as of sixty days prior to the date of such report;))~~ in the previous ninety days of failure or refusal of a major permittee to comply with an interim or final requirement ~~((or to notify the department of compliance with each interim or final requirement (as required pursuant to paragraph (2) of this section)))~~. Such list shall be available to the public for inspection and copying and shall contain at least the following information ~~((with respect to))~~ on each instance of noncompliance:

(a) Name and address of each noncomplying permittee;

(b) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, ~~((two-week))~~ delay in commencement of construction of treatment facility~~((;))~~; failure to notify department of compliance with an interim requirement ~~((to complete construction by June 30)),~~ etc.)

(c) A short description of any actions or proposed actions by the permittee or the department to comply or enforce compliance with the interim or final requirement; and

(d) Any details which ~~((tend to))~~ explain or mitigate an instance of noncompliance ~~((within))~~ with an interim or final requirement.

(5) If a permittee fails or refuses to comply with an interim or final requirement in a permit, such noncompliance shall constitute a violation of the permit for which the department may modify ~~((suspend))~~ or revoke the permit or take direct enforcement action.

AMENDATORY SECTION (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-220-150 OTHER TERMS AND CONDITIONS. (1) In addition to the requirements of WAC 173-220-130 and 173-220-140, each issued permit shall require that:

(a) All discharges authorized by the permit shall be consistent with the terms and conditions of the permit;

(b) Any facility expansions, production increases or process modifications which would result in new or increased discharges of pollutants causing effluent limitations in the permit to be exceeded must be reported to the department by submission of a new application or supplement thereto; or, if such discharge does not violate effluent limitations specified in the permit, by submission to the department of notice of such new or increased discharges of pollutants;

(c) Any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit~~((;))~~;

~~((b))~~ (d) The permit may be modified ~~((suspend))~~ or revoked in whole or in part during its terms for cause including, but not limited to, the following:

(i) Violation of any term or condition of the permit;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(iv) ~~((To incorporate))~~ Availability of new information, such as monitoring data, which provides a basis for establishing different effluent limitations or other permit conditions;

(v) A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations;

(vi) Incorporation of an approved local pretreatment program into a (POTW's) municipality's permit; (and
~~(v))~~ (vii) Establishment of a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) under section 307(a) of the FWPCA for a toxic pollutant which is more stringent than any limitation upon such pollutant in the permit;
 (viii) Failure or refusal of the permittee to allow entry as required in RCW 90.48.090; and
 (ix) Nonpayment of permit fees assessed pursuant to RCW 90.48.610.

~~((c))~~ (e) At any reasonable time, including all times during which production, treatment, or discharge of wastes is occurring, the permittee shall allow the department or its authorized representative (upon the presentation of credentials and at reasonable times):

(i) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit, subject to any access restrictions due to the nature of the project;

(ii) To have access to, and copy at reasonable cost, any records required to be kept under terms and conditions of the permit;

(iii) To inspect any monitoring equipment or method required in the permit; (or) and

(iv) To sample any discharge of pollutants.

~~((d) That)~~ (f) If the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the department of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the FWPCA if such source were discharging pollutants;

(ii) Except as to such categories and classes of point sources or discharges specified by the department, any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the FWPCA if such source were discharging pollutants;

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source (introducing pollutants into such works) existing at the time of issuance of the permit.

Such notice shall include information on:

~~((H))~~ (A) The quality and quantity of effluent to be introduced into such treatment works; and

~~((H))~~ (B) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

~~((c))~~ (g) The permittee shall at all times properly operate and maintain any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit. Where design criteria have been established, the permittee shall not (permit) allow flows or waste loadings to exceed approved design criteria, or approved revisions thereto.

~~((f) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the FWPCA for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the department shall revise or modify the permit in accordance with the toxic effluent standard of prohibition and so notify the permittee:)~~

(2) Every permit shall be conditioned to insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308 of the FWPCA.

(3) When deemed necessary by the department, any publicly owned treatment works shall be required to develop a full or partial local pretreatment program as specified in 40 CFR Part 403. Permit conditions for a municipality which has received full local pretreatment program approval shall include:

(a) Granting of authority to issue permits under chapter 173-208 WAC;

(b) A requirement to develop, adopt, and enforce a program that is at least as stringent as the department's program under chapter 173-216 WAC; and

(c) A requirement to report to the department at a specified frequency upon the status of its implementation.

(4) Permits for domestic wastewater facilities shall be issued only to a public entity, except in the following circumstances:

(a) Facilities existing or approved for construction with private operation on or before the effective date of this chapter, until such time as the facility is expanded; or

(b) Facilities that serve a single nonresidential, industrial, or commercial establishment. Commercial/industrial complexes serving multiple owners or tenants and multiple residential dwelling facilities such as mobile home parks, apartments, and condominiums are not considered single commercial establishments for the purpose of the preceding sentence.

~~((c))~~ (5) For facilities that are owned by nonpublic entities and under contract to a public entity, the permit shall be issued (a joint permit) to ((both the owner and)) the public entity.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-160 TRANSMISSION OF ISSUED PERMIT TO REGIONAL ADMINISTRATOR ((OF ISSUED PERMIT)). Immediately following issuance, the department shall transmit((to the regional administrator,)) a copy of every issued permit((immediately following issuance,)) along with any and all terms, conditions, requirements, or documents which are a part of such permit or which affect the authorization by the permit of the discharge of pollutants to the regional administrator.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-180 DURATION AND REPLACEMENT OF EXISTING PERMIT. (1) Permits shall be issued for fixed terms not exceeding five years.

(2) Any permittee shall make application for replacement to an existing permit((s)) or continuation of ((discharges after)) a discharge beyond the expiration date of his/her permit by filing with the department an application for replacement of ((his)) the permit at least one hundred eighty days prior to its expiration. ((The filing requirement for replacement shall be satisfied by written request for replacement by the permittee to the department, unless the department, at its discretion, requires a permittee to request a replacement by submitting to the department all applicable forms:))

(3) The scope and manner of any review of an application for replacement of a permit by the department shall be sufficiently detailed as to insure the following:

(a) That the permittee is in substantial compliance with ((or has substantially complied with)) all of the terms, conditions, requirements and schedules of compliance of the expired permit;

(b) That the department has up-to-date information on the permittee's production levels((:)); permittee's waste treatment practices((:)); nature, content and frequencies of permittee's discharge((:)); either pursuant to the submission of new forms and applications or pursuant to monitoring records and reports resubmitted to the department by the permittee; and

(c) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements listed in WAC 173-220-130((including any additions to, or revisions or modifications of such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit)).

(4) The notice and public participation procedures specified in WAC 173-220-050 through 173-220-100 are applicable to each draft replacement permit.

(5) When a permittee has made timely and sufficient application for the renewal of a permit, an expiring permit remains in effect and enforceable until the application has been ((finally determined)) denied or a replacement permit has been issued by the department.

(6) Notwithstanding any other provision in this ((part)) chapter, any point source, the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is so constructed as to meet all applicable standards of performance, shall not be subject insofar as the FWPCA is concerned to any more stringent standard of performance during a ten year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-190 ~~MODIFICATION~~~~(,—SUSPENSION,)~~ AND REVOCATION OF PERMITS. (1) Any permit issued under this chapter can be modified~~(, suspended)~~ or revoked in whole or in part by the department for cause including, but not limited to, the causes listed in WAC 173-220-150 (1)~~((b), or for failure or refusal of the permittee to allow entry according to RCW 90.48.090)~~ (d) or when remanded to the department for modification by the pollution control hearings board.

(2) The department may, upon request of the permittee, ~~(revise or)~~ modify a schedule of compliance or an operating condition(s) in an issued permit if it determines good and valid cause exists for such revision (such as an act of God, strike, flood, materials shortage, or other event over which the permittee has little or no control ~~(exists for such revision)~~) and for which there is no other reasonably available remedy.

(3) The department shall modify~~(, suspend)~~ or revoke permits only after public notice and opportunity for public hearing as provided in this chapter in those instances where changes are proposed which lessen the stringency of effluent limitations. In all other instances, the form of public notice and public participation, if any, shall be determined by the department on a case-by-case basis according to the significance of the proposed action.

~~((4) Nothing herein shall apply to permits remanded to the department for modification by the pollution control hearings board.))~~

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-200 TRANSFER OF PERMIT. (1) A permit is automatically transferred to a new ~~(owner or operator)~~ discharger if:

(a) A written agreement between the old and new ~~(owner or operator)~~ discharger containing a specific date for transfer of permit responsibility, coverage, and liability is submitted to the director~~(, containing a specific date for transfer of permit responsibility, coverage, and liability)~~; and

(b) The director does not notify the old and new ~~(owner or operator)~~ discharger of his/her intent to modify, or revoke and reissue the permit. If this notice is not given, the transfer is effective on the date specified in the agreement mentioned in ~~(paragraph)~~ (a) ~~(above)~~ of this subsection.

(2) Unless a permit is automatically transferred according to subsection (1) of this section, a permit may be transferred only if modified or revoked and reissued to identify the new permittee and incorporate such other requirements as may be necessary.

AMENDATORY SECTION (Amending Order DE 84-19, filed 5/11/84)

WAC 173-220-210 MONITORING, RECORDING AND REPORTING. (1) Monitoring.

(a) Any discharge authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the department per RCW 90.48.650, including the installation, use, and maintenance of monitoring equipment or methods ~~((including, where appropriate, biological monitoring methods))~~. These monitoring requirements would normally include measurement of the following:

- (i) Flow ~~((in gallons per day))~~;
- (ii) Pollutants ~~((either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements))~~ which are subject to reduction or elimination under the terms and conditions of the permit;
- (iii) Pollutants which the department finds could have a significant impact on the quality of ~~((navigable))~~ surface waters of the state, or sediments or biota of such waters, but for which specific effluent limitations have not been established; and
- (iv) Pollutants specified by the administrator, in regulations issued pursuant to the FWPCA, as subject to monitoring.

(b) Pollutants may be measured either directly or indirectly through the use of accepted correlation coefficients, biological assessments of toxicity such as bioassays of waters or sediments, studies of abundance and diversity of biota, studies of disease incidence in biota or studies of bioaccumulation in biota, or equivalent measurements.

(c) Each effluent flow or pollutant required to be monitored pursuant to ~~((subsection))~~ (a) of this ~~((section))~~ subsection shall be monitored at ~~((intervals sufficiently frequent))~~ locations and frequencies

sufficient to yield data which ~~((reasonably))~~ characterize~~((s))~~ the nature of the discharge of the monitored effluent flow or pollutant.

(i) Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels ~~((which may be monitored at less frequent intervals))~~.

~~((c))~~ (ii) A reduced schedule and/or scope of monitoring may be allowed if the department determines that the results of monitoring have identified no measurable or potential adverse effects on surface waters of the state or biota or sediment in surface waters of the state. If monitoring identifies measurable or potential adverse effects to surface waters of the state or biota or sediment in surface waters, more frequent and/or comprehensive monitoring may be required.

(d) Monitoring of intake water, influent to treatment facilities, internal waste streams, ~~((and/or))~~ residual solids generated by wastewater treatment, receiving waters, and/or sediments and biota in the receiving waters may be required when determined necessary by the department to verify compliance with net discharge limitations or removal requirements, to verify that proper waste treatment or control practices are being maintained, or to determine the effects of the discharge on the surface waters of the state.

(e) The department may allow coordinated monitoring activities where discharges from multiple dischargers may be causing cumulative effects and where cost savings will result from such coordination.

(f) Monitoring for detection and reporting of overflows and bypasses may be required by the department.

(2) Recording of monitoring activities and results. Any permit which requires monitoring of the authorized discharge shall require that:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required ~~((of him))~~ in his/her permit;

(b) Any records of monitoring activities and results shall include for all samples:

- (i) The date, exact place, and time of sampling;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; ~~((and))~~
- (v) The quality assurance and quality control measures taken in conjunction with the analyses; and
- (vi) The results of such analyses; ~~((and))~~

(c) The permittee shall be required to retain for a minimum of three years any records of monitoring activities and results including all original ~~((strip chart))~~ recordings ~~((for))~~ from continuous monitoring instrumentation, and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the department or regional administrator;

(d) If the discharger monitors any pollutant, using approved test procedures or as specified in the permit, more frequently than required by his/her permit, the results of this monitoring shall be used in the computation and reporting of averages. Records relating to any more frequent monitoring shall be retained as in this subsection.

(3) Reporting of monitoring results.

(a) The permittee shall periodically report (at a frequency of not less than once per year) ~~((on the proper reporting form))~~, the monitoring results obtained pursuant to monitoring requirements in a permit. Results shall be reported in a format specified by the department. In addition to the required ~~((reporting form))~~ monitoring reports, the department at its discretion may require submission of such other results as it determines to be necessary.

(b) Monitoring reports shall be signed by:

(i) In the case of corporations, ~~((by))~~ a responsible corporate officer ~~((or his duly authorized representative, if such representative is))~~. Authority to sign monitoring reports may be delegated by a responsible corporate officer to a representative who is responsible for the overall operation of the facility from which the discharge originates. Written notice of such delegation shall be submitted to the department.

(ii) In the case of a partnership, by a general partner.

(iii) In the case of a sole proprietorship, by the proprietor.

(iv) In the case of a municipal, state or other public facility, by either a principal executive officer~~((;))~~ or ranking elected official~~((—or other duly authorized employee))~~. Authority to sign monitoring reports may be delegated by the principal executive officer or ranking elected official to a representative who is responsible for the overall operation of the facility from which the discharge originates. Written notice of such delegation shall be submitted to the department.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-225 APPEALS. (1) Individual permits are subject to appeals as specified in chapter ~~((371-08-WAC))~~ 43.21B RCW.

(2) For general permits: (a) The terms and conditions of a general permit as they apply to the appropriate class of dischargers is subject to appeal within thirty days of issuance of a general permit in accordance with chapter 43.21B RCW; (b) the terms and conditions of a general permit as they apply to an individual discharger are subject to appeal in accordance with chapter 43.21B RCW within thirty days of the effective date of coverage of that discharger. Consideration of an appeal of general permit coverage of an individual discharger is limited to the general permit's applicability or nonapplicability to that discharger. Appeal of general permit coverage of an individual discharger does not affect any other individual dischargers. If the terms and conditions of a general permit are found to be inapplicable to any discharger, the matter shall be remanded to the department for consideration of issuance of an individual permit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-220-220 CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS.

WSR 88-13-096

PROPOSED RULES

EVERETT COMMUNITY COLLEGE

[Filed June 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Washington State Community College District V intends to adopt, amend, or repeal rules concerning college procedures on disclosure of student information, chapter 132E-121 WAC;

that the institution will at 2:00 p.m., Monday, August 15, 1988, in the Administrative Conference Room, Everett Community College, 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 28B.19 RCW.

The specific statute these rules are intended to implement is chapter 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before August 15, 1988.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Robert J. Drewel
President
Everett Community College
801 Wetmore
Everett, WA 98201
(206) 259-7151, ext. 202

Dated: June 20, 1988

By: Robert J. Drewel
President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 132E-121 WAC, College procedures on disclosure of student information.

Statutory Authority: Chapter 28B.19 RCW.

Summary of the Rule(s): This notice proposes adoption of chapter 132E-121 WAC, College procedures on disclosure of student information. Compliance with the Buckley Amendment is the intent.

Description of the Purpose of the Rule(s): The board of trustees of Washington Community College District V proposes this adoption for compliance with the Buckley Amendment.

Reasons Supporting the Proposed Rule(s): Compliance with the Buckley Amendment in responding to requests for disclosure of student information.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Robert J. Drewel, President, Everett Community College, 801 Wetmore, Everett, WA 98201, (206) 259-7151, ext. 202.

Name of Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Washington Community College District V.

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.

Chapter 132E-121 WAC
COLLEGE PROCEDURES ON DISCLOSURE OF STUDENT INFORMATION

WAC

132E-121-010 Disclosure of student information.

NEW SECTION

WAC 132E-121-010 DISCLOSURE OF STUDENT INFORMATION. Unless the student specifically requests otherwise, designated officials* of the college will routinely respond to requests for the following directory information about a student:

- Student's name.
- Major field of study.
- Extracurricular activities.
- Height and weight of athletic team members.
- Dates of attendance.
- Degrees and awards received.
- Other institutions attended.

No other information is to be given without the consent of the student involved (if eighteen years of age or older). The dean of student

services will be responsible for reviewing unusual requests for information and assisting in the interpretation of the provisions of the Buckley Amendment.

Examples of unusual requests for information and the procedures followed by the office of the dean of student services are as follows:

- (1) Issuance of subpoena/warrant to student by legal authorities:
 - (a) Establish identity of legal authority;
 - (b) Locate student and apprise him/her of situation and ask student to come to the dean's office;
 - (c) Bring the student to the dean's office to meet with the legal authority.
- (2) Inquiry by telephone or in person by family member regarding student's academic status, attendance, etc.:
 - (a) Establish identity of inquiring party;
 - (b) Establish age of the student in question;
 - (c) If the student is eighteen years of age or older, written permission from the student must be on file before any information is released.
- (3) Inquiry by the student's family member or legal authority regarding whereabouts of the student who is believed missing, i.e., was the student in class that day or when was the last day of attendance. (An emergency situation where information is necessary to protect the health and safety of the student.)
 - (a) Establish identity of inquiring party by asking for birthdate or other personal information about the student in question;
 - (b) Check with student's instructors regarding attendance;
 - (c) Provide information to inquiring party.
 - (d) Inquiry from individuals who claim an emergency situation and the need to contact a student:
 - (a) Take the message and phone number of person calling so that a call-back can verify the identity of the calling party;
 - (b) Determine the critical nature of the emergency situation;
 - (c) Contact the student, giving him/her the name and telephone number of the calling party.

- * Designated officials of the college are those employees with routine access to the information.

WSR 88-13-097

PROPOSED RULES

EVERETT COMMUNITY COLLEGE

[Filed June 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Washington State Community College District V intends to adopt, amend, or repeal rules concerning uniform personnel rules for the classified staff service of Everett and Edmonds Community Colleges, repealing chapter 132E-12 WAC;

that the institution will at 2:00 p.m., Monday, August 15, 1988, in the Administrative Conference Room, Everett Community College, 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 chapters 28B.19 and 28B.16 RCW.

The specific statute these rules are intended to implement is chapter 28B.16 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before August 15, 1988.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to

written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Mr. Robert J. Drewel, President
Everett Community College
801 Wetmore
Everett, WA 98201
(206) 259-7151, ext. 202

Dated: June 16, 1988

By: Robert J. Drewel
President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 132E-12 WAC, Uniform personnel rules for the classified staff service of Everett and Edmonds Community Colleges.

Statutory Authority: Chapters 28B.19 and 28B.16 RCW.

Summary of the Rule(s): This notice proposes a repeal of chapter 132E-12 WAC, Uniform personnel rules for the classified staff service of Everett and Edmonds Community Colleges. Edmonds Community College is no longer in District V and personnel rules for classified staff service are now directed from the Higher Education Personnel Board (HEPB).

Description of the Propose of the Rule(s): The board of trustees of Washington Community College District V proposes this repeal. Edmonds Community College is now in District 23 and the Higher Education Personnel Board is responsible for giving direction on personnel rules for classified staff service.

Reasons Supporting the Proposed Rule(s): Edmonds Community College is no longer in District V. The Higher Education Personnel Board serves as the personnel organization for rules and regulations addressing classified staff.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Robert J. Drewel, President, Everett Community College, 801 Wetmore, Everett, WA 98201, (206) 259-7151, ext. 202.

Name of Person or Organization Whether Private, Public, or Governmental, that is proposing the Rule: Washington Community College District V.

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 of its Purpose: None.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132E-12-003 PURPOSE.
WAC 132E-12-006 POSITIONS COVERED BY THE RULES.
WAC 132E-12-009 ADOPTION OF RULES.
WAC 132E-12-012 AMENDMENT OF RULES.
WAC 132E-12-015 DEFINITION OF TERMS.
WAC 132E-12-018 ORGANIZATION.
WAC 132E-12-021 COMPENSATION.
WAC 132E-12-024 ELECTION OF OFFICERS.
WAC 132E-12-027 MEETINGS.
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WAC 132E-12-036 POWERS AND DUTIES.
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WAC 132E-12-306 DURATION TRIAL SERVICE PERIOD.
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WSR 88-13-098**PROPOSED RULES****UTILITIES AND TRANSPORTATION COMMISSION**

[Filed June 21, 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 information delivery services and blocking of residential lines to block access

to such services, WAC 480-120-089. The proposed new section is shown below as Appendix A, Cause No. U-88-1798-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new section 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, July 27, 1988, in the Commission's Hearing Room, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, 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 80.01.040 and chapter 123, Laws of 1988.

The specific statute these rules are intended to implement is chapter 123, Laws of 1988.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 22, 1988.

Dated: June 21, 1988

By: Paul Curl
Acting Secretary

STATEMENT OF PURPOSE

In the matter of adopting WAC 480-120-089 relating to information delivery services and blocking of residential lines to block access to such services.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and chapter 123, Laws of 1988, which direct that the commission has authority to implement the provisions of chapter 80.36 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to implement chapter 123, Laws of 1988, which, in essence, requires that residential telephone customers be provided free blocking of access to information delivery services, as well as notice that such blocking is available, and that all related costs be borne by information providers.

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 and chapter 123, Laws of 1988.

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.

Economic Impact Statement

Pursuant to chapters 19.85 and 43.21H RCW, an economic impact statement is required if more than 10 percent of businesses within a three digit standard industry classification code are affected. Information providers fall within industry group number 737—Computer programming, data processing, and other computer related services—Industry No. 7375—Information retrieval services. It is highly unlikely that information providers comprise more than 10 percent of the three digit standard industry classification code.

Even if information providers did meet the statutory threshold, the Washington legislature, in enacting chapter 123, Laws of 1988, has specifically required that all costs of implementing that statute's provisions are to be borne by information providers (section 2(3)). In addition to following the legislation's requirements for notice to customers and free blocking for residential subscribers, the rule simply requires that separate accounts be used for this service so that the statutory mandate can be enforced.

Appendix "A"

NEW SECTION

WAC 480-120-089 INFORMATION DELIVERY SERVICES.

(1) "Information delivery services" means telephone recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix.

(2) "Information providers" means the persons or corporations that provide the information, prerecorded message, or interactive program for the information delivery service.

(3) "Interactive program" means a program that allows a caller, once connected to the information provider's announcement machine, to access additional information by using the caller's telephone.

(4) Telecommunications companies offering information delivery services shall provide to each residential telephone subscriber the opportunity to block access to all information delivery services offered through the local exchange company. The first such request shall be fulfilled at no charge to the subscriber. Subsequent requests for blocking (e.g. after a subscriber has unblocked such access) must be afforded, but a charge may be assessed. This charge for blocking shall cover its fully allocated costs, and shall be tarified.

(5) To insure that all costs of complying with Chapter 123, Laws of 1988, shall be borne by the information providers, the telecommunications company offering information delivery services shall:

(a) Keep records of all expenses related to compliance with this rule, and related to provision of information delivery services, in a separate sub-account, which shall be reflected on its books of accounts, and in its annual report. Expenses include, but are not limited to, the expense of conducting a cost study to determine the appropriate charge for blocking, provision of customer notification of the availability of blocking, and the expense of developing accounting procedures to comply with this rule.

(b) Fully allocate all embedded investments associated with complying with this rule, and associated with provision of information delivery service, to a separate account which shall be reflected on its books of accounts, and in its annual report.

(c) Report all information delivery service and blocking service revenues as separate revenue items in its annual report.

(6) The local exchange company shall inform residential telephone subscribers of the availability of the blocking service through a single-topic bill insert and through publication of a notice in a conspicuous location in the consumer information pages of the local white pages telephone directory. The notice and bill insert shall clearly inform residential telephone subscribers of their rights under the law and shall, at a minimum, include the following information:

(a) Under Washington law you have the right to request free blocking of access to information delivery services on your residential telephone line. Information delivery services are services provided for a fee

by telephone recorded messages, or other information services which you get by using a special telephone number. These special telephone numbers are often called "976" or "960" numbers. Blocking is the way that you can prevent these types of calls from being made on your residential telephone line.

(b) You are entitled to free blocking on your residential telephone line the first time you request it. If you later decide to "unblock", you can do so, but you may be charged for any blocking after that.

(c) To request blocking of access to information delivery services on your residential telephone line, call your local telephone company at the following number: _____, and request blocking.

(d) The Washington Utilities and Transportation Commission is given the authority to enforce this law. If you want more information, please write to the Commission at the address listed below, or call the Commission during working hours at its toll-free number: 1-800-562-6150.

Washington Utilities and Transportation
Commission
Consumer Affairs Section
1300 South Evergreen Park Drive S.W.
Olympia, Washington 98504

WSR 88-13-099

ADOPTED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Order R-287, Cause No. U-87-1611-R—Filed June 21, 1988]

In the matter of amending WAC 480-120-056 relating to telecommunications companies.

This action is taken pursuant to Notice Nos. WSR 88-02-015, 88-04-057, 88-07-027 and 88-10-050 filed with the code reviser on December 30, 1987, February 1, 1988, March 9, 1988, and May 4, 1988, respectively. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice Nos. WSR 88-02-015, 88-04-057, 88-07-027 and 88-10-050 the above matter was scheduled for consideration at the commissioner's regular open meeting, to take place at 9:00 a.m., Wednesday, April 27, 1988, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, Washington.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to April 15, 1988, and to submit data, views, or arguments orally at the regular open meeting noted above.

At the April 27, 1988, meeting the commission considered the rule change proposal. Written comments were presented by the Washington Independent Telephone Association, American Network, Inc., Evergreen Legal Services, GTE Northwest Incorporated; AT&T,

Pacific Northwest Bell, U.S. Sprint, and United Telephone System. No oral comments were presented.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-056 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-120-056 as amended will conform with and implement the requirements of section 7, chapter 229, Laws of 1987, as codified in RCW 80.36.460.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-056 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 17th day of June, 1988.

Washington Utilities and Transportation Commission
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner
Appendix "A"

AMENDATORY SECTION (Amending Order R-242, Cause No. U-85-56, filed 11/7/85)

WAC 480-120-056 DEPOSITS. (1) (~~Establishment of credit—Residential. An applicant for residential service may establish credit by demonstrating to the utility any one of the following subparagraphs (a), (b), or (c), subject to the provisions of subsection (3) of this section:~~

(a) ~~Prior service with the utility in question of at least twelve months duration, ending no longer than one year prior to the date of application if service was not disconnected for failure to pay and no more than two delinquency notices were served upon the customer, or~~

(b) ~~Prior service with a utility of the same type as that of which service is sought for at least twelve consecutive months with a satisfactory payment record as demonstrated in (1)(a) of this subsection. PROVIDED, That the reference may be quickly and easily checked, and the necessary information is provided, or~~

(c) ~~Demonstrate three of the credit factors from the following factors:~~

(i) ~~Full-time consecutive employment, with no more than two employers, or a regular source of income during the entire twenty-four months prior to the application for service, and the applicant is currently employed or has a regular source of income; or the applicant has a permanent, regular source of income:~~

(ii) ~~Ownership of the premises to be served:~~

(iii) ~~Has a savings account:~~

(iv) ~~Has been issued a major charge card:~~

(v) ~~Has been issued a major oil charge card:~~

~~(vi) Has been issued a local charge card.~~

~~(2) Establishment of credit=)~~ Nonresidential deposit requirements. An applicant for nonresidential service may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.

~~((3))~~ (2) Residential deposit requirements. A deposit may be required under the following circumstances:

~~(a) ((Where the applicant has failed to establish a satisfactory credit history as outlined above:~~

~~(b) In any event,))~~ A deposit may be required when, within the twelve months prior to the application, the applicant's service of a similar type has been disconnected for failure to pay amounts owing, when due; where applicant has an unpaid, overdue balance owing for service from the ((utility)) telecommunications company to which application is being made or any other telecommunications company; or where ~~((three))~~ four or more delinquency notices have been served upon the applicant by any other telecommunications company during the twelve months previous to the application for service. A telecommunications company shall provide written notice to the subscriber that a deposit may be required upon issuance of the fourth delinquency notice.

~~((c))~~ (b) Installation or continuation of service to a residence where a prior subscriber still resides and where any balance for such service to that prior subscriber is past due or owing.

~~((d))~~ (c) When a subscriber (i) is initially provided service without a deposit on the basis of ((credit)) information supplied to the ((utility)) telecommunications company by the subscriber which is incorrect ((or cannot be verified by the utility)) and the subscriber would have otherwise been required to make a deposit; or (ii) ((has on two or more occasions in the previous twelve months tendered payment of due amounts with checks which have been dishonored; or (iii)) has an unpaid, overdue balance owing for the same class of ((telephone)) service from the ((utility)) telecommunications company providing that service, or any other telecommunications company, which becomes known to the serving ((utility)) telecommunications company after current service has been provided; ((or (iv) has given the utility cause to disconnect for nonpayment, but the utility has elected not to disconnect service;)) or ((v)) (iii) has incurred excessive toll charges as defined in subsection ((4)) (3)(b) of this section and the subscriber has elected not to make full payment of all proper toll charges as provided in subsection ((4)) (3)(b) of this section.

~~((e))~~ (d) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5 p.m. of the first business day following notification.

~~((4))~~ (3) Amount of deposit.

~~(a)~~ In instances where a deposit may be required by the ((utility)) telecommunications company, the deposit shall not exceed:

~~(i)~~ For nonresidential service, two-twelfths of estimated annual billings:

~~(ii) For residential service, two months customary utilization for applicants or subscribers with previous verifiable service((; or two months new line billings for all other residential subscribers in a reasonable amount established in the tariffs of the utility, based upon data presented for commission review)).~~

~~(b) Subscribers whose toll charges exceed ((the estimated amount by twenty dollars or by twenty percent, whichever is greater)) thirty dollars, or whose toll charges exceed customary utilization over the previous six months by ((a like amount when no estimate has been taken, or whose estimated toll or customary utilization is not available and the toll charges exceed fifty percent of the two months new line billing for all utility subscribers of the same class of service as established in the tariffs of the utility)) twenty dollars or by twenty percent, whichever is greater, may be required, upon written or verbal notice to the subscriber, to make payment of either of the following in the subscriber's election, before the close of the next business day following receipt of the notice:~~

~~(i) Full payment of outstanding toll charges specified in said notice; or all toll charges accrued to the time of payment providing the subscriber has been notified that he or she is liable for toll charges in addition to those charges specified in the notice which come to the attention of the ((utility)) telecommunications company between the time of notice and of payment.~~

~~(ii) Payment of a new or additional deposit in light of the subscriber's actual use based upon two months customary utilization.~~

~~(c) If the notice herein described is mailed, receipt may be presumed open the ((forth)) fourth business day following date of mailing.~~

~~(d) At the time application is made for service, the ((utility)) telecommunications company may request an estimate of the applicant's greatest monthly toll usage during the ensuing twelve months. When such an estimate is asked and given, the applicant for service shall be advised that if the estimate is exceeded by twenty dollars or twenty percent, whichever is greater, immediate payment may be required, a deposit or additional deposit may be required, or service may be disconnected.~~

~~((5) Application of deposits. When the account of a subscriber is delinquent any amount on deposit on that account may be applied by the utility towards satisfaction of the past due amount before disconnection is effected. Written notice of such application of the deposit shall be promptly furnished to the subscriber. If an amount on deposit is applied toward satisfaction of any past due amount, the utility may require of the subscriber an additional deposit in the amount so applied and, if applicable, payment of any past due amounts still owing after application of the deposit. Application of a deposit as provided for herein shall not prevent disconnection of service for failure by a subscriber to pay any past due amount which may remain outstanding.~~

~~(6))~~ (4) Transfer of deposit. Where a subscriber of whom a deposit is required transfers ~~((his))~~ service to a new location within the same utility's service area, the deposit, less any outstanding balance, shall be transferable and applicable to the new service location.

~~((7))~~ (5) Interest on deposits. Interest on deposits held shall be accrued at a rate based upon a simple average of the effective interest rate for new issues of one year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. Deposits would earn that interest rate during January 1 through December 31 of the subsequent year. Interest shall be computed from the time of deposit to the time of refund or total application of the deposit and shall be compounded annually.

~~((8))~~ (6) Extended payment on deposit. Where a subscriber or applicant for service of whom a deposit is required is unable to pay the entire amount of the deposit in advance of installation or continuation of service, the subscriber or applicant shall be allowed to pay fifty percent of the deposit amount prior to installation or continuation of service, with the remaining amount payable in equal amounts on the ~~((utility's))~~ telecommunications company's ordinary billing cycle during the following two months of service. A subscriber or applicant for service unable to meet this deposit requirement shall have the opportunity to receive service under subsection ~~((9))~~ (7), alternative to deposit, of this section.

~~((9))~~ (7) Alternative to deposit. A residential subscriber or applicant for residential service of whom a deposit is required, but who is unable to make a deposit, shall be allowed, as an alternative to the making of a deposit, to furnish a satisfactory guarantor to secure payment of bills for service requested in a specified amount not to exceed the amount of deposit which may be required.

~~((10))~~ (8) Receipt. Where payment is made by cash, a receipt shall be furnished to each applicant or subscriber for the amount deposited.

~~((11))~~ (9) Refund of deposit. Deposits shall be refunded under the following circumstances in the following form:

(a) Satisfactory payment. Where the subscriber has for twelve consecutive months paid for service ~~((when))~~ in a prompt and satisfactory manner as evidenced by the following:

(i) The ~~((utility))~~ telecommunications company has not initiated disconnection proceedings against the subscriber.

(ii) No more than ~~((two))~~ three notices of delinquency have been made to the subscriber by the ~~((utility))~~ telecommunications company.

(b) Termination of service. Upon termination of service, the ~~((utility))~~ telecommunications company shall return to the subscriber the amount then on deposit plus accrued interest, less any amounts due the ~~((utility))~~ telecommunications company by the subscriber for service rendered.

(c) Refunds - how made. Any deposit, plus accrued interest, shall be refunded to the subscriber either in the form of a check issued and mailed to the subscriber no longer than fifteen days following completion of twelve months' satisfactory payment as described above, or applied to the subscriber's bill for service in the thirteenth and, if appropriate, subsequent months, in accordance with the preference as to ~~((of))~~ refund indicated by the

subscriber at the time of deposit, or as thereafter modified.

~~((12))~~ (10) Should a larger or new deposit be required, the reasons therefor shall be specified in writing to the subscriber. Any requirement for a new or larger deposit shall be in conformity with the standards set forth in this ~~((rule))~~ section.

WSR 88-13-100

PROPOSED RULES

GAMBLING COMMISSION

[Filed June 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amending WAC 230-46-020 and new section WAC 230-46-070;

that the agency will at 10:00 a.m., Friday, August 12, 1988, in the Campbells Lodge, Chelan, 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 9.46.070 (11) (14).

Dated: June 21, 1988

By: Frank L. Miller

Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory section WAC 230-46-020 Definitions; and new section WAC 230-46-070 Punchboard/pull tab dispensing devices not to be used in promotional contests—Exception.

Description of Purpose: To maintain integrity in authorized promotional contests of chance by setting up requirements for promotional game cards.

Statutory Authority: RCW 9.46.070 (11) (14).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-46-020 adds definition of promotional contests; and WAC 230-46-070 sets forth requirements for type of card to be used in promotional contests of chance.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director and Frank L. Miller, Deputy Director, South Jefferson Building, 1110 South Jefferson, Olympia, WA 98504, 234-1075 scan, 753-1075 comm.

Proponents and Opponents: Gambling Commission staff proposes this rule amendment and new rule.

Agency Comments: The agency believes the proposed amendment and new rule are self-explanatory and need no further comment.

This amendment and new rule were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined there may be an economic impact upon a certain number of licensees administered by

this agency by the adoption of this amendment or new rule.

AMENDATORY SECTION (Amending Order 156, filed 3/20/86)

WAC 230-46-020 DEFINITIONS. (1) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

(2) "Promotional contest of chance" means a scheme designed to promote a specific business, product(s) or service, and not the scheme itself, in which a person, association, or an organization may distribute money or property among individuals who have agreed to participate in a contest of chance equally with other participants, providing no participant is required to do more than the allowable methods of entry authorized under the provisions of RCW 9.46.03(~~(b)-(10)(a)(i)-(ix)~~) 55.

(3) "Promotional material" means all material which defines the rules of a particular promotional contest of chance, which may extend to a description or an explanation of a product(s), service(s), or combination(s) thereof being promoted.

(4) "Perusing promotional material" means to read or examine contest rules and/or the specific product(s), service(s), or combination(s) thereof being promoted: Provided, That the contest rules or its promotional material shall disclose any additional requirement(s) to attend a demonstration, tour a facility or specific areas, visit a specified location or similar activity, to include the approximate length of time in connection with a promotional scheme: Provided further, That any tour, demonstration, visit, or combination of requirement(s) will not extend beyond a total of two consecutive hours in duration.

NEW SECTION

WAC 230-46-070 PUNCHBOARDS/PULL TABS AND PULL TAB DISPENSING DEVICES NOT TO BE USED IN PROMOTIONAL CONTESTS - EXCEPTION. (1) Punchboards/pull tabs and pull tab dispensing devices may not be used as a part of any promotional contest of chance as authorized in RCW 9.46.0355. This prohibition shall not apply to promotional game cards which could otherwise qualify as pull tabs when such game cards meet the following standards:

(a) The promotional game cards are readily distinguishable from any specific pull tab series or pull tab type used within the State of Washington;

(b) The promotional game cards are designed and manufactured for a specific and unique promotional contest of chance;

(c) The promotional game cards clearly display the name of the sponsoring business or the name of the product(s) being promoted;

(d) The promotional game cards do not or have never contained a price per play on the card;

(e) The official rules of play including the language "no purchase necessary" are printed on the back of each promotional game card; and

(f) A game card or prototype thereof, must be submitted to the Commission for review prior to being utilized in this state.

(2) Promotional game cards, punchboards/pull tabs or dispensing devices found to be in violation of this prohibition shall be subject to immediate seizure pursuant to RCW 9.46.230.

**WSR 88-13-101
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
[Filed June 21, 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 Definitions, amending WAC 248-18-001 and Records and reports—Medical record system, amending WAC 248-18-440;

that the agency will at 10:00 a.m., Tuesday, August 9, 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 July 27, 1988.

The authority under which these rules are proposed is RCW 70.41.030.

The specific statute these rules are intended to implement is chapter 70.41 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 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 July 26, 1988. The meeting site is in a location which is barrier free.

Dated: June 17, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-18 WAC, Hospital rules and regulations.

Purpose of the Rules: To amend existing rules to clarify DSHS standards for maintaining an adequate medical record-keeping system.

Reason Rules are Necessary: To establish in rule clearer standards for medical record keeping by hospitals.

Statutory Authority: RCW 70.41.030.

Summary: WAC 248-18-440, is amended to establish a clear and consistent system for keeping and storing medical records.

Person Responsible for Drafting and Implementation: Ken Lewis, Section Supervisor, Health Facilities Survey Section, ET-31, phone 753-5851.

The rules are proposed by the Division of Health, DSHS, for adoption by the department.

These rules are not necessary as a result of a federal law, federal court decision, or state court decision.

Reviser's note: The material contained in this filing will appear in the 88-14 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

WSR 88-13-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed June 21, 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 discharge planning, new WAC 248-18-445;

that the agency will at 10:00 a.m., Tuesday, August 9, 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 July 27, 1988.

The authority under which these rules are proposed is RCW 70.41.030.

The specific statute these rules are intended to implement is chapter 70.41 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 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 July 26, 1988. The meeting site is in a location which is barrier free.

Dated: June 17, 1988

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 248-18-445 Discharge planning.

Purpose of the Rules: To add a new section to hospital rules and regulations for establishing safe standards for the discharge of patients from hospitals.

Reason Rules are Necessary: To establish in rule clear standards for hospital responsibility pending the discharge of patients from hospitals.

Statutory Authority: RCW 70.41.030.

Summary: WAC 248-18-445 Discharge planning, is added to establish consistent rules for health and safety in the discharge of patients from hospitals.

Person Responsible for Drafting and Implementation: Ken Lewis, Section Supervisor, Health Facilities Survey Section, ET-31, phone 753-5851.

The rules are proposed by the Division of Health, DSHS, for adoption by the department.

These rules are not necessary as a result of a federal law, federal court decision, or state court decision.

NEW SECTION

WAC 248-18-445 DISCHARGE PLANNING. Hospitals shall:

(1) Establish and maintain a system for discharge planning and designate a person responsible for system management and implementation;

(2) Establish written policies and procedures to:

(a) Identify patients needing further nursing, therapy, or supportive care following discharge from the hospital;

(b) Develop a documented discharge plan for each identified patient including:

(i) Coordinate with patient and family or caregiver, as appropriate;

(ii) Coordinate with appropriate members of the health care team; and

(iii) Coordinate with the receiving agency or agencies, when necessary.

(c) Notify referral agencies, minimally to include verbal contact and communication regarding:

(i) Relevant patient history;

(ii) Specific care requirements including equipment, supplies, and medications needed; and

(iii) Date care is to be initiated.

(d) For those patients identified under subsection (2)(a) of this section, assess and document needs and implement discharge plans to the extent possible by the hospital.

WSR 88-13-103
PROPOSED RULES
BOARD OF HEALTH
 [Filed June 21, 1988]

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

Amd ch. 248-100 WAC Communicable and certain other diseases.

Amd WAC 248-100-011 Definitions.

Amd WAC 248-100-016 Confidentiality;

that the agency will at 9:30 a.m., Wednesday, August 10, 1988, in the Seattle Room, West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, 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 chapter 70.24 RCW and RCW 43.20.050.

The specific statute these rules are intended to implement is chapter 70.24 RCW and RCW 43.20.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 10, 1988.

Dated: June 21, 1988

By: Thelma R. Struck
 Assistant Secretary

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 248-100-011 Definitions (communicable and certain other diseases); and 248-100-016 Confidentiality.

Purpose of the Rules: To establish State Board of Health definition of sexually transmitted disease (STD), HIV testing, and three types of counseling. The amended confidentiality section reflects specific requirements

for confidentiality required for sexually transmitted diseases in SSSB 6221 amending chapter 70.24 RCW.

Reason Rules are Necessary: To immediately implement sections 701(4) and 709, SSSB 6221, 1988, an act relating to sexually transmitted diseases, chapter 70.24 RCW.

Statutory Authority: Sections 701(4) and 709, SSSB 6221, 1988, 709, and chapter 70.24 RCW.

Summary: Chapter 248-100 WAC, Communicable and certain other diseases/confidentiality is amended. Amendments include the definition of HIV testing and definitions of AIDS counseling, pre-test counseling and post-test counseling.

Person Responsible for Drafting and Implementation: Jean Ullom, Section Head, Health Information/Policy Development, ET-24, phone 753-5824.

The rules are proposed by DSHS for adoption by the State Board of Health.

These rules are not necessary as a result of a federal law, federal court decision, or state court decision.

AMENDATORY SECTION (Amending Order 308, filed 3/16/88)

WAC 248-100-011 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of chapter 248-100 WAC:

(1) "Acquired immunodeficiency syndrome (AIDS)" means an illness characterized by the diseases and conditions defined and described by the Centers for Disease Control, U.S. Public Health Services, Morbidity and Mortality Weekly Report (MMR), August 14, 1987, Volume 36, Number 1S.

(2) "AIDS counseling" means counseling directed toward:

(a) Increasing the individual's understanding of acquired immunodeficiency syndrome; and

(b) Assessing the individual's risk of HIV acquisition and transmission; and

(c) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.

(3) "Board" means the Washington state board of health.

(4) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others, but who does not have symptoms of the disease.

(5) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(6) "Category A disease or condition" means a reportable disease or condition of urgent public health importance, a case or suspected case of which must be reported to the local or state health officer immediately at the time of diagnosis or suspected diagnosis.

(7) "Category B disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer no later than the next working day following date of diagnosis.

(8) "Category C disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer within seven days of diagnosis.

(9) "Child day care facility" or "day care center" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(10) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

(11) "Contact" means a person exposed to an infected person, animal, or contaminated environment which might provide an opportunity to acquire the infection.

(12) "Child day care facility" or "day care center" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(13) "Department" means the Washington state department of social and health services.

(14) "Food handler" means any person preparing, processing, handling, or serving food or beverages for people other than members of his or her household.

(15) "Food service establishment" means any establishment where food or beverages are prepared for sale or service on the premises or elsewhere, and any other establishment or operation where food is served or provided for the public with or without charge.

(16) "Health care facility" means:

(a) Any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, maternity homes, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establishments, clinics, or other settings where one or more health care providers practice; and

(b) In reference to a sexually transmitted disease, other settings as defined in chapter 70.24 RCW.

(17) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care (including persons) who is:

(a) Licensed or certified in this state under Title 18 RCW (to practice medicine, podiatry, chiropractic, optometry, osteopathy, nursing, midwifery, dentistry, physician assistants, and); or

(b) Is military personnel providing health care within the state regardless of licensure.

(18) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 248-100-207.

(19) "Infection control measures" means the management of infected persons, persons suspected to be infected, and others in such a manner as to prevent transmission of the infectious agent.

(20) "Isolation" means the separation or restriction of activities of infected persons, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

(21) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any medical laboratory.

(22) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

(23) "Local health officer" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(24) "Medical laboratory" means any facility analyzing specimens of original material from the human body for purposes of patient care.

(25) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

(26) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(27) "Post-test counseling" means counseling after the HIV test when results are provided and directed toward:

(a) Increasing the individual's understanding of human immunodeficiency virus (HIV) infection;

(b) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection; and

(c) Encouraging the individual testing positive to notify persons with whom there has been contact capable of spreading HIV.

(28) "Pre-test counseling" means counseling provided prior to HIV testing and aimed at:

(a) Helping an individual to understand:

(i) Ways to reduce the risk of human immunodeficiency virus (HIV) infection;

(ii) The nature, purpose, and value of HIV testing;

(iii) The significance of the results of HIV testing; and

(iv) The dangers of HIV infection; and

(b) Assessing the individual's ability to cope with the results of HIV testing.

(29) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

WSR 88-13-104
PROPOSED RULES
BOARD OF HEALTH
 [Filed June 21, 1988]

~~((24))~~ (29) "Quarantine" means the separation or restriction on activities of a person having been exposed to or infected with an infectious agent, to prevent disease transmission.

~~((25))~~ (30) "Reportable disease or condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer.

~~((26))~~ (31) "School" means a facility for programs of education as defined in RCW 28A.31.102 (preschool and kindergarten through grade twelve).

~~((27))~~ (32) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

- (a) Acute pelvic inflammatory disease;
- (b) Chancroid;
- (c) Chlamydia trachomatis infection;
- (d) Genital and neonatal herpes simplex;
- (e) Genital human papilloma virus infection;
- (f) Gonorrhea;
- (g) Granuloma inguinale;
- (h) Hepatitis B infection;
- (i) Human immunodeficiency virus infection (HIV) and acquired immunodeficiency syndrome (AIDS);
- (j) Lymphogranuloma venereum;
- (k) nongonococcal urethritis (NGU); and
- (l) Syphilis.

(33) "State health officer" means the person designated by the secretary of the department to serve as statewide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

~~((28))~~ (34) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

~~((29))~~ (35) "Unusual communicable disease" means a communicable disease which is not commonly seen in the state of Washington but which is of general public health concern including, but not limited to, Lassa fever, smallpox, typhus, and yellow fever.

~~((30))~~ (36) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry and practicing animal health care.

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-016 CONFIDENTIALITY. Identifying information about any individual with a reportable disease or condition pursuant to chapter 248-100 WAC shall be protected by persons with knowledge of such identity.

(1) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with sexually transmitted disease may disclose identity of a person or release identifying information only as specified in chapter 70.24 RCW.

(2) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with a reportable disease or condition, other than those specified in subsection (1) of this section, shall release identifying information only to other individuals responsible for protecting the health and well being of the public through control of communicable and certain other diseases.

~~((2))~~ (3) Local and state health department personnel shall maintain individual case reports as confidential records consistent with WAC 248-100-091.

~~((3))~~ (4) The Washington state public health laboratory, other laboratories approved as public health referral laboratories, and any persons, institutions, or facilities submitting specimens or records containing patient identifying information shall maintain the identifying information accompanying submitted laboratory specimens as confidential records.

~~((4))~~ (5) Statistical summaries and epidemiologic studies based on individual case reports may be public information provided no individual is identified.

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning amendments to chapter 248-100 WAC, Communicable and certain other diseases; and WAC 248-100-207, 248-100-208 and 248-100-209, HIV testing and counseling requirements;

that the agency will at 9:30 a.m., Wednesday, August 10, 1988, in the Seattle Room, West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, 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 chapter 70.24 RCW and RCW 43.20.050.

The specific statute these rules are intended to implement is chapter 70.24 RCW and RCW 43.20.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 10, 1988.

Dated: June 21, 1988
 By: Thelma R. Struck
 Assistant Secretary

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: New WAC 248-100-207, Human immunodeficiency virus (HIV) Testing—Laboratory screening; WAC 248-100-208, Counseling standards—AIDS counseling; and WAC 248-100-209 Counseling standards—HIV pre-test and post-test counseling.

Purpose of the Rules: To establish in rule the State Board of Health standards for HIV testing, AIDS counseling, pre-test counseling, and post-test counseling.

Reason Rules are Necessary: To immediately implement sections 701(4) and 709, SSB 6221, 1988, an act relating to sexually transmitted diseases and amending chapter 70.24 RCW.

Statutory Authority: Sections 701(4) and 709, SSSB 6221, 1988, amending chapter 70.24 RCW.

Summary: Chapter 248-100 WAC, Communicable and certain other diseases, is amended. Amendments include the definition of HIV testing and definitions of the three types of counseling. Two new sections set forth standards for HIV testing and the three types of counseling: AIDS, pretest, and post-test.

Person Responsible for Drafting and Implementation: Jean Ullom, Section Head, Health Information/Policy Development, ET-24, phone 753-5824.

The rules are proposed by DSHS for adoption by the State Board of Health.

These rules are not necessary as a result of a federal law, federal court decision, or state court decision.

NEW SECTION

WAC 248-100-207 HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING—ORDERING—LABORATORY SCREENING—INTERPRETATION—REPORTING. (1) Except for blind

seroprevalence studies allowed in chapter 70.24 RCW, any person ordering or prescribing an HIV test for another shall:

(a) Provide or refer for pretest counseling as described in WAC 248-100-209; and

(b) Obtain or ensure informed separate consent of the individual to be tested prior to ordering or preceding an HIV test, except as provided in chapter 70.24 RCW; and

(c) Provide or refer for post-test counseling as described in WAC 248-100-209 if HIV test is positive for or suggestive of HIV infection.

(2) Laboratories and other places where HIV testing is performed shall demonstrate complete and satisfactory participation in an HIV proficiency testing program approved by the department laboratory quality assurance section, mail stop B17-9, Seattle, Washington 98104.

(3) The department laboratory quality assurance section shall accept substitutions for EIA screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

(4) Medical laboratories testing for the presence of HIV shall:

(a) Send an HIV test prevalence results report by telephone or in writing to the department office on AIDS (MS B17-9, Seattle, Washington 98104), quarterly or more often; and

(b) Include in the report:

(i) Number of samples tested;

(ii) Number of samples repeatedly reactive by enzyme immuno assay (EIA);

(iii) Number of samples tested by western blot assay (WBA) or other confirmatory test as approved by department office on AIDS;

(iv) Number of positive test results by WBA or other confirmatory test as approved by department office on AIDS;

(v) Number of specimens tested by viral culture; and

(vi) Number of positive test results from viral cultures.

(5) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) HIV is isolated by viral culture technique; or

(b) HIV antibodies are identified by a sequence of tests which are reactive and include:

(i) A repeatedly reactive screening test such as the enzyme immunoassay (EIA); and

(ii) An additional, more specific, assay such as a positive western blot assay (WBA) or other tests as defined and described in the AIDS office manual, April, 1988, DSHS, mail stop LP-20, Olympia, Washington 98504.

(c) Such information consists of relevant, pertinent facts communicated in such a way that it will be readily understood by the recipient.

NEW SECTION

WAC 248-100-208 COUNSELING STANDARD—AIDS COUNSELING. (1) Principal health care providers shall counsel or ensure AIDS counseling for:

(a) Each pregnant patient; and

(b) Each patient seeking treatment of a sexually transmitted disease.

(2) Drug treatment programs under chapter 69.54 RCW shall provide or ensure provision of AIDS counseling for each person in a drug treatment program.

(3) Health care providers, persons, and organizations providing AIDS counseling shall:

(a) Assess the behaviors of each individual counseled for risk of acquiring and transmitting human immunodeficiency virus (HIV);

(b) Maintain a nonjudgmental environment during counseling which:

(i) Considers the individual's particular circumstances; and

(ii) Is culturally, linguistically, and developmentally appropriate to the individual being counseled.

(c) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(d) Provide or ensure provision of personalized risk reduction education to individuals who:

(i) Are men who engaged in anal intercourse with other men;

(ii) Used intravenous substances at any time since 1977;

(iii) Engaged in sex for money or drugs at any time since 1977;

(iv) Have had sexual and/or needle-sharing contact with persons listed in subsection (3)(d)(i), (ii), and (iii) of this section;

(v) Have been exposed to or known to have had a sexually transmitted disease at any time since 1977;

(vi) Are at increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control;

(vii) Are enrolled in a drug treatment program under chapter 69.54 RCW; or

(viii) Received multiple transfusions of blood, plasma, or blood products from 1977 to 1985.

(e) Encourage individuals assessed to be at other than virtually no risk of HIV infection to:

(i) Receive pretest counseling; and

(ii) Consider confidential or anonymous voluntary HIV testing if appropriate.

(iii) "Virtually no risk of HIV infection" means persons with medical histories absent of and reporting none of the following factors:

(A) Transfusion with blood or blood products at any time since 1977;

(B) Residence at any time in countries where HIV is considered endemic since 1977;

(C) Unprotected sex between men at any time since 1977;

(D) Use of intravenous substances at any time since 1977, especially when sharing needles and syringes;

(E) Engagement in sex for money or drugs at any time since 1977;

(F) Sexual and/or needle-sharing contacts at any time since 1977 with persons listed in subsection (3)(e)(iii)(C), (D), and (E) of this section;

(G) Exposure to a sexually transmitted disease; and

(H) Increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control.

(4) Persons and organizations providing AIDS counseling may provide additional or more comprehensive counseling than required in this section.

NEW SECTION

WAC 248-100-209 COUNSELING STANDARDS—HUMAN IMMUNODEFICIENCY VIRUS (HIV) PRETEST COUNSELING—HIV POST-TEST COUNSELING. (1) Health care providers and other persons providing pretest counseling shall:

(a) Assess the individual's risk of acquiring and transmitting HIV by evaluating information about the individual's possible risk-behaviors;

(b) Provide at least one individual counseling session prior to HIV testing.

(2) When an individual is assessed by a counselor or health care provider as "virtually no risk of HIV infection," as defined in WAC 248-100-208 (3)(e)(iii), a counselor or the health care provider shall, in addition to subsection (1)(a) of this section:

(a) Maintain a nonjudgmental environment during counseling which:

(i) Considers the individual's particular circumstances; and

(ii) Is culturally, linguistically, and developmentally appropriate to the individual being counseled.

(b) Explain the nature, purpose, value, and reason for the HIV tests;

(c) Explain the possible effect of a positive HIV test result on employment and insurance;

(d) Develop and maintain a system of referral and make referrals that:

(i) Are accessible and confidential for those counseled;

(ii) Are acceptable to and supportive of those counseled;

(iii) Provide assistance to those counseled in maintaining risk reduction behaviors.

(e) Provide at least one individual counseling session at the time HIV test results are disclosed for individuals testing positive; and

(f) Maintain disclosure and confidentiality requirements in WAC 248-100-016.

(3) If the individual is assessed by a health care provider to be other than "virtually no risk of HIV infection," as defined in WAC 248-100-208 (3)(e)(iii), the person providing pretest counseling shall maintain requirements in subsection (1) and (2) of this section and:

(a) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(b) Provide personalized risk reduction education to individuals who:

(i) Are men engaging in unprotected intercourse with other men at any time since 1977;

(ii) Used intravenous substances at any time since 1977, especially those sharing needles and syringes;

(iii) Engaged in sex for money or drugs at any time since 1977;

(iv) Have had sexual and/or needle-sharing contacts at any time since 1977 with persons listed in subsection (3)(b)(i), (ii), and (iii) of this section;

- (v) Have been exposed to or diagnosed with a sexually transmitted disease;
- (vi) Are at increased risk of HIV infection by definition of United States Public Health Services, Centers for Disease Control;
- (vii) Are required by chapter 70.24 RCW to receive HIV counseling and testing.
- (c) Inform any individual planning to be tested for HIV of the need to notify sexual and needle-sharing partners if test results are positive;
- (d) Advise individuals listed in subsection (3)(b)(i), (ii), and (iii) of this section not to donate or sell blood, blood products, semen, organs, or other body tissues; and
- (e) Emphasize or re-emphasize the following counseling messages:
 - (i) Do not share intravenous drugs, needles, and syringes;
 - (ii) Do not engage in behaviors in which blood, vaginal fluid, semen, or any other body fluid which may contain blood is exchanged;
 - (iii) Condoms, even if used properly, do not supply absolute protection from HIV infection;
 - (iv) Condoms may reduce risk of HIV infection if the condom is:
 - (A) Latex and used with a water-based lubricant rather than an oil-based lubricant, if a lubricant is used;
 - (B) Used in conjunction with spermicide during vaginal or anal intercourse; and
 - (C) Worn from start to finish of vaginal, oral, and anal intercourse.
- (v) The sexual behaviors having highest risk for HIV infection are those involving the exchange of blood or semen, especially receptive anal and vaginal intercourse;
- (vi) Anal intercourse may increase the risk of condom failure and HIV infection;
- (vii) The following will eliminate or decrease the risk of HIV infection:
 - (A) Sexual abstinence;
 - (B) A mutually monogamous relationship between uninfected people; and
 - (C) Reducing the number of sexual partners while following safer sex guidelines.
- (viii) Infected women should postpone pregnancy until more is known about how to prevent prenatal and perinatal transmission of HIV infection;
- (ix) Sexual negotiation skills can be learned to enhance risk reduction; and
- (x) Other sexually transmitted diseases, especially those causing genital ulcers, may increase the risk of acquiring or transmitting HIV infection.
- (f) Make those counseled aware HIV retesting at a later date may be necessary or recommended.
- (4) Persons providing post-test counseling shall:
 - (a) Follow requirements in subsection (1) of this section;
 - (b) Provide at least one individual counseling session at the time HIV test results are disclosed for individuals:
 - (i) Testing positive for HIV; or
 - (ii) Reporting practice of behaviors listed in (3)(b)(i), (ii), and (iii) of this section.
 - (c) If the individual being counseled tested positive for HIV infection:
 - (i) Offer to assist persons in notifying partners;
 - (ii) Offer referral of partners for testing and counseling, as appropriate;
 - (iii) Develop or adopt a system to avoid documenting the names of referred partners in the permanent record of the individual being counseled; and
 - (iv) Offer referral for alcohol and drug and mental health counseling, including suicide prevention, if appropriate.
 - (v) Refer for tuberculosis screening.

WSR 88-13-105
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 21, 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 social services for families, children and adults, amending chapter 388-15 WAC;

that the agency will at 10:00 a.m., Tuesday, August 9, 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 August 10, 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 August 9, 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

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Dated: June 16, 1988

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Purpose of the Rule Changes: To amend WAC 388-15-207 through 388-15-213.

Reason These Rule Changes are Necessary: To incorporate wage increases as mandated by legislature; and clarify transfer of resources to spouse and status of persons receiving COPES and chore services in one household.

Statutory Authority: RCW 74.08.090.

Summary of Rule Change: Wage increase becomes effective September 1, 1988; clarifies that transfers or assignment of resources by one spouse to the other in order to qualify for Title XIX benefits are resources to the spouse receiving the resource; clarify that the chore services client in a multiple client household where the other client is receiving COPES services, is the secondary client; and editorial changes.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Samuel H. Koshi, Chore Services Program, Aging and Adult Services Administration, (206) 753-1851 or 234-1851 scan, HB-11.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

AMENDATORY SECTION (Amending Order 2605, filed 3/2/88)

WAC 388-15-207 CHORE SERVICES FOR ADULTS—LEGAL BASIS—PURPOSE—GOALS. (1) The legal basis for the chore services program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist eligible ~~((persons))~~ applicants at risk of being placed in a residential care facility by providing allowable chore services tasks that ~~((with))~~ may allow the eligible ~~((persons))~~ applicants to remain in or return to his or her own home whenever possible.

(3) The department shall limit goals for chore services for adults to those specified in WAC 388-15-010 (1)(b)~~((c));~~ and (d). Also see WAC 388-15-010(2).

AMENDATORY SECTION (Amending Order 2605, filed 3/2/88)

WAC 388-15-208 DEFINITIONS. (1) "Chore services" means services in performing light work and household and other personal tasks which eligible ~~((persons))~~ applicants/clients are unable to do for themselves because of frailty or handicapping conditions.

(2) "Contracted program" means that method of hourly chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore service provider.

(3) "Individual provider program" means that method of chore service delivery where the client employs and supervises the chore service provider. Payment is made to the client, who in turn pays the provider.

(4) "Attendant care" means the service provided to eligible ~~((persons))~~ clients who were receiving attendant care services prior to April 1, 1988:

- (a) Who need full-time care, and/or
- (b) Require assistance that cannot be scheduled with personal care tasks, e.g., toileting, ambulation, wheelchair transfer, and/or
- (c) Need protective supervision when it is dangerous for a ~~((person))~~ client to be left alone. Protective supervision does not include responsibilities a legal guardian should assume. ~~((Attendant care is authorized))~~ The department authorizes a daily rate payment for attendant care in the individual provider program.

(5) "Hourly care" means the service ~~((provided))~~ the department provides to eligible ~~((persons))~~ applicants needing assistance that ~~((can be scheduled))~~ may be scheduled with household and/or personal care tasks.

(6) "Own home" ~~((shall))~~ means the ~~((individual's))~~ client's present or intended place of residence whether in a building rented or owned by the client or in the home of another person. The department provides chore services ~~((are provided))~~ within the confines of the home property except for essential shopping, errands, and transportation necessary for the completion of authorized tasks.

(7) "Client review questionnaire (CRQ)" means an assessment form ~~((used))~~ the department uses to determine the amount and type of chore services to be provided. The ~~((form is used by))~~ department staff uses the CRQ to identify, document, and score the allowable chore service needs of all eligible ~~((persons))~~ applicants/clients.

(8) The "CRQ authorization ceiling chart" means the chart that indicates the maximum number of hours ~~((that))~~ the department may ~~((be authorized))~~ authorize for a client's score.

(9) "Personal care" means such tasks as meal preparation, feeding, dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, reminding to take medicines which a ~~((person))~~ client would normally provide for himself or herself and are necessary to maintain a ~~((person))~~ client in his or her own home. The department shall not authorize sterile procedures and administering medications by injection ~~((are not authorized personal care tasks;))~~ unless the provider of the individual provider program ~~((provider))~~ is a licensed health practitioner or a member of the client's immediate family.

(10) "Shared living arrangement" means a situation where two or more adults share expenses and live together in a home of one of them with common facilities, such as living, cooking, and eating areas.

(11) "At risk of institutionalization" or "at risk of residential placement" means that the applicant/~~((recipient))~~ client meets criteria outlined in WAC 388-15-209 (1)(c).

(12) "High risk of residential care placement" means that the applicant/client meets the criteria outlined in WAC 388-15-209 (1)(b).

(13) "Client" means ~~((an individual))~~ a person who is receiving chore services.

(14) "Applicant" means a person who applies for chore services.

(15) "Resources" means all real or personal property owned by or available to an applicant at the time of application which ~~((can be applied))~~ the department may apply toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent.

~~((+5))~~ (16) "Property that is owned or available" ~~((shall))~~ means property over which the applicant/client has legal right of control.

~~((+6))~~ (17) "Companionship" means being with a person in the client's own home for the purpose of preventing loneliness or to accompany the client outside the home for other than basic errands, medical appointments, or laundry.

~~((+7))~~ (18) "Activities essential to daily living" means the tasks listed in the ~~((client review questionnaire))~~ CRQ.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 2605, filed 3/2/88)

WAC 388-15-209 CHORE SERVICES—ELIGIBLE INDIVIDUALS. (1) Service eligibility. Adults eligible for chore services shall be:

- (a) Eighteen years of age and over;
- (b) At high risk of residential care placement as evidenced by the need of assistance with one or more personal care tasks defined in WAC 388-15-208(9) as determined by completion and scoring of the ~~((client review questionnaire))~~ CRQ;
- (c) At risk of residential care placement and unable to perform one or more activities essential to daily living and are in social and economic need as evidenced by one or more of the following:
 - (i) Seventy-five years of age or over;
 - (ii) Homebound;
 - (iii) Chronic physical health problems;
 - (iv) Chronic mental health problems;
 - (v) Confused;
 - (vi) Socially isolated; and
 - (vii) Living alone.
- (d) Authorized the amount of chore services as determined by the CRQ;

(e) Authorized payment for a maximum of one hundred sixteen hours per month of task~~((f))~~-related services listed in the CRQ;

(f) Authorized services and department payment only when ~~((their needs cannot be met by))~~ relatives, friends, nonprofit organizations, or other persons are not available or willing to provide the service without charge;

(g) Referred to the volunteer chore service program, prior to approval of services by department paid providers when aged sixty or over and eligible for five hours per month or less of service~~((s));~~

(h) Referred to the volunteer chore service program, when aged sixty or over, are not eligible for chore services because of income or need level, or are eligible for a reduced level of service because of income, where such program exists, for needed hours of service not provided by the department.~~((f))~~

~~((+))~~ The department shall pay for services only for persons whose chore service needs cannot be met by relatives, friends, nonprofit organizations, or other persons.

(2) Financial eligibility.

(a) To be eligible to receive chore services, ~~((a person))~~ an applicant shall meet the financial eligibility requirements established by the department.

(b) An adult determined to be at high risk or ~~((an adult))~~ at risk of being placed in a residential care facility is eligible to receive the level of hourly chore services as determined by WAC 388-15-212 if ~~((he or she is))~~ a recipient of:

- (i) Supplemental Security Income and/or state supplementation; or
- (ii) Limited casualty program medical care as defined by RCW 74.09.010 at time of eligibility determination; or
- (iii) Has gross income, adjusted for family size, at or below thirty percent of the state median income.

(c) Adult protective service clients determined to be at high risk or at risk of being placed in a residential care facility are eligible to receive chore services without regard to income or resources, if these services are an integral but subordinate part of the adult protective services plan. These services are limited to a maximum of ninety days during any twelve-month period.

(d) An adult applicant or client with a gross income over thirty percent of the state median income (SMI) and determined to be at high risk or at risk of being placed in a residential care facility receives a reduced level of hours. The department shall determine the reduced level by:

- (i) Deducting one hour of chore services for each percentage point by which the client's income exceeds thirty percent SMI; and
- (ii) Deducting an additional hour of service for each percentage point by which the client's income exceeds fifty percent SMI.

(e) Clients or applicants shall not be eligible for chore services if ~~((the clients or applicants))~~ they have resources in excess of ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member.

The department shall consider the following resources in determining the value of a client's or applicant's resources:

- (i) Checking accounts;
- (ii) Savings accounts;
- (iii) Certificates of deposit;
- (iv) Money markets;
- (v) Negotiable stocks and bonds;
- (vi) Latest assessed value of lots or property not attached to residence;
- (vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature;

(ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) are available to the applicant/client as a single-person household and subject to WAC 388-15-209 (2)(e) and (f).

(f) The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

- (i) A home and lot normal for the community where the client or applicant resides;
- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or client to earn income or to rehabilitate himself or herself;
- (v) One cemetery plot for each member of the family unit;
- (vi) Cash surrender value of life insurance.

(3) Continuing eligibility for attendant care for adults and supervision of children.

(a) ~~The department shall no longer authorize attendant care for adults and supervision of children ((will no longer be authorized)) after March 31, 1988. ((Individuals)) The department shall provide services for persons applying on or after April 1, 1988, ((will be provided services)) based on eligibility as determined in WAC 388-15-209 (1) and (2).~~

(b) Clients receiving attendant care and/or supervision of children prior to April 1, 1988, shall continue to be eligible to receive services.

(c) ~~The department shall make periodic reviews to determine continuing need for and/or eligibility ((shall be made)) according to the following rules which were in effect prior to April 1, 1988. ((These rules follow:)):~~

~~((f)) (i) Authorize attendant care service ((is authorized)) for ((individuals)) clients receiving attendant care prior to April 1, 1988, and ((requires)) requiring assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or protective supervision((-));~~

~~((f)) (ii) Authorize protective supervision ((is authorized)) when ((a person)) persons may hurt ((oneself)) themselves, others, or damage property if left alone, or ((is)) confused and may wander ((away)), or becomes easily disoriented((-);~~

~~((f)) (iii) Base the amount of service authorized ((is based)) on the total number of hours per day the chore service provider must be with a client. ((f)) The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours((-);~~

~~((f)) (iv) Authorize supervision of children ((may be authorized)) only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision((-);~~

~~((f)) (v) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.~~

~~((f)) (d) The department shall pay a daily rate ((shall be paid)) for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of ((twenty-three)) twenty-four dollars and fifty cents per day or the amount determined by the table as follows:~~

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ ((23.00)) <u>24.50</u>
16 - 20	up to \$ ((21.00)) <u>22.50</u>
12 - 15	up to \$ ((19.00)) <u>20.50</u>
8 - 11	up to \$ ((16.50)) <u>17.50</u>
4 - 7	up to \$ ((11.50)) <u>12.50</u>
1 - 3	up to \$ ((7.50)) <u>8.50</u>

The department shall add up to five dollars per day ~~((is added))~~ for each additional client authorized for service in the household.

(i) The department shall pay a reduced amount equivalent to the individual provider program hourly rate when the client's income exceeds thirty percent SMI.

(ii) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home.

~~((f)) (e) An attendant care client may request approval from the department to exceed the maximum daily rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client in their own home when:~~

- (i) The need for the higher payment is specific and clearly measurable; and
- (ii) The client provides documentation that services are not available at the established maximum payment rate; and
- (iii) The client has made a reasonable effort to find a qualified provider at the established maximum payment rate; and
- (iv) The total cost for attendant care services ~~((does))~~ shall not exceed the lesser of the following, a maximum of ~~((thirty))~~ thirty-one dollars and fifty cents per day, or the amount determined by the table as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY
21 - 24	up to \$7
16 - 20	up to \$6
12 - 15	up to \$5
8 - 11	up to \$4
4 - 7	up to \$3
1 - 3	up to \$2

~~((g)) (f) The department shall inform all clients ((shall be informed)) in writing of the process as defined in subsection (3)((f))((e)) of this section ((and)). Clients shall have the right to request approval from the department to exceed the maximum daily rate.~~

~~((h)) (g) When the department denies a request to exceed the maximum payment rate((s)) or makes approval at a lesser rate than requested by the client, the client shall receive notice of the right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.~~

~~((h)) (h) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.~~

~~((j)) (i) The department shall pay only after the department verifies service delivery.~~

(4) Continuing eligibility for family care services.
 (a) ~~((Family care with)) The department shall no longer ((be authorized)) authorize family care after March 31, 1988. ((Individuals applying)) Applicants applying on or after April 1, 1988, ((with)) shall be provided services based on eligibility as determined in WAC 388-15-209 (1) and (2).~~

(b) Clients receiving family care services prior to April 1, 1988, shall continue to be eligible to receive services ~~((at the authorized level)).~~

(c) The department shall make periodic reviews to determine continuing need ((for)) and/or eligibility ((shall be made)) for family care services according to the following rules which were in effect prior to April 1, 1988. ((f)) Families may receive services when the client is the normal caretaker of the children, and:

- (i) Is in the home but unable to physically care for the children;
 - (ii) Is in the home and physically unable to perform the necessary household tasks; or
 - (iii) Is out of the home temporarily, as defined by the department; and
 - (iv) Children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.
- ((f)) (d) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.
- ((f)) (e) The family care questions take into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.
- (i) Family housework determines the need for additional help cleaning the household because of the presence of children.
 - (ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.
 - (iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.
 - (iv) The total scoring for subsection (4)((f))(e)(i), (ii), and (iii) are N = 0, M = 14, S = 27, and T = 40.
- ((g)) (f) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

AMENDATORY SECTION (Amending Order 2605, filed 3/2/88)

WAC 388-15-212 SERVICE DETERMINATIONS. (1) The department shall determine the need for and amount of chore services for all applicants and clients of chore services according to the score on a ((client review questionnaire)) CRQ. The department shall use a separate CRQ for each adult.

(2) Department staff shall administer the ((client review questionnaire)) CRQ.

(3) The department shall not duplicate services nor payment in multiple-client households. In households with community options program entry system (COPES) and chore services, the department shall consider the chore services client as the secondary client.

(4) When administering the ((client review questionnaire)) CRQ, department staff shall take into account the client's:

- ((f)) (a) Risk of being placed in a residential care facility;
- ((f)) (b) Ability to perform activities of daily living;
- ((f)) (c) Living conditions;
- ((f)) (d) Arrangements; and
- ((f)) (e) Availability and use of alternative resources, including immediate family, other relatives, neighbors, friends, community programs, and volunteers.

((f)) (5) The series of questions on the ((client review questionnaire)) CRQ documents the client's need for assistance with the tasks available from the chore services program.

(a) The department shall base the scoring on the following to indicate the extent of assistance the client needs from the chore services program for each task:

(i) N = No service needed: The client is either able to perform this task without help or is already receiving or could receive all the help needed from other sources.

(ii) M = Minimal service needed: The client cannot perform this task without help and needs a minimal amount of assistance from the chore services program in addition to whatever help may or may not be received from other sources.

(iii) S = Substantial service needed: The client cannot perform this task without help and needs a substantial amount of assistance from the chore services program in addition to whatever help may or may not be received from other sources.

(iv) T = Total service needed: Client is completely unable to perform this task and is not now receiving any help and needs total assistance from the chore services program.

(b) The department shall award points for each task based on the degree of assistance needed from the chore services program. The number of points available for each task is set forth in subsection ((f)) (6) of this section. The point total is converted into maximum allowable hours using the table set forth in subsection ((f)) (7) of this section.

((f)) (6) The department shall score the allowable chore services program tasks, as defined by the department, according to the need and frequency of services as follows:

(a) Escort/transport to medical services: N = 0, M = 1, S = 2, T = 3((-));

(b) Essential shopping and errands: N = 0, M = 5, S = 10, T = 15. When the chore service provider must perform these tasks for the client because the client is unable to go along: N = 0, M = 1, S = 3, and T = 5((-);

(c) Laundry: N = 0, M = 1, S = 2, and T = 3. If there are no laundry facilities in the client's own home, the department shall award additional points: N = 0, M = 3, S = 5, and T = 7((-);

(d) Splitting/stacking/carrying wood: N = 0, M = 3, S = 5, and T = 7. Service to perform this task is available only to ((persons)) clients who use wood as their sole source of fuel for heat and/or cooking((-);

(e) Housework. Housework is limited to tasks necessary to protect the client's health and safety and to those areas of the home actually used by the client, i.e., kitchen, bathroom, bedroom, living room, and dining room: N = 0, M = 1, S = 2, and T = 3((-);

(f) Cooking. Scoring is based on the preparation of three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10((-);

(ii) Light meal N = 0, M = 4, S = 7, T = 10((-);

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(g) Feeding. Scoring is based on feeding three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10((-);

(ii) Light meal N = 0, M = 4, S = 7, T = 10((-);

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(h) Dressing/undressing: N = 0, M = 4, S = 7, and T = 10((-);

(i) Care of appearance: N = 0, M = 1, S = 3, and T = 5((-);

(j) Body care: N = 0, M = 5, S = 10, and T = 15((-);

(k) Bed transfer: N = 0, M = 1, S = 3, and T = 5((-);

(l) Ambulation: N = 0, M = 4, S = 7, and T = 10((-);

(m) Wheelchair transfer: N = 0, M = 1, S = 3, and T = 5((-);

(n) Bathing: N = 0, M = 4, S = 7, and T = 10((-);

(o) Toileting: N = 0, M = 5, S = 10, and T = 15((-);

(p) Remind to take medicines: N = 0, M = 1, S = 2, and T = 3.

((f)) (7) The department shall determine the number of hours of chore services to be authorized per month ((shall be determined)) by translating the total number of points awarded on the ((client review questionnaire)) CRQ into a monthly authorization, using the following CRQ authorization ceiling chart:

CRQ SCORE	CEILING HOURS PER MONTH
1 - 4	5
5 - 9	8
10 - 14	11
15 - 19	14
20 - 24	18
25 - 29	21
30 - 34	24
35 - 39	28
40 - 44	31
45 - 49	34
50 - 54	37
55 - 59	41
60 - 64	44
65 - 69	47
70 - 74	51
75 - 79	54
80 - 84	57
85 - 89	60
90 - 94	64
95 - 99	67
100 - 104	70
105 - 109	74
110 - 114	77
115 - 119	80
120 - 124	83
125 - 129	87
130 - 134	90
135 - 139	93
140 - 144	97
145 - 149	100

CRQ SCORE	CEILING HOURS PER MONTH
150 - 154	103
155 - 159	106
160 - 164	110
165 - 169	113
170 and above	116

WSR 88-13-106
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 21, 1988]

The department may authorize fewer hours according to the client's individual circumstances and the provisions under WAC 388-15-215(7).

~~((7))~~ (8) The client or applicant may request approval from the department to exceed the ceiling hours authorized per month, as determined in subsection ~~((6))~~ (7) of this section. The department shall authorize the number of additional hours not to exceed one hundred sixteen hours per month per client in the hourly program when:

(a) There are circumstances of a demonstrated duration, frequency, or severity which require additional hours of allowable chore services to avoid adverse effects to the client's health or safety; and

(b) The need for additional hours is specific and clearly measurable; and

(c) Funds are available under provisions of WAC 388-15-214.

~~((8))~~ (9) The department shall inform all clients or applicants in writing of the process as defined in subsection ~~((7))~~ (8) of this section ~~(and)~~. Clients or applicants shall have the right to request from the department approval to exceed the authorized hours as set forth in subsection ~~((6))~~ (7) of this section.

~~((9))~~ (10) When the department denies a request for additional hours or approves fewer additional hours than requested, the department shall send the client or applicant a notice of the right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

~~((10))~~ (11) The department may provide chore services through the individual provider program or through the contracted program, as deemed most appropriate by department policy established by the state office.

AMENDATORY SECTION (Amending Order 2605, filed 3/2/88)

WAC 388-15-213 PAYMENT. (1) The department may pay for services performed by a relative, but ~~((may pay))~~ payment to a spouse, father, mother, son, or daughter may be made only when the relative:

(a) Has to give up paid employment (more than thirty hours per week) to give the service~~(:);~~_i or

(b) Would otherwise need to take paid employment (more than thirty hours per week) to meet the relative's financial needs~~(:);~~_i or

(c) Would otherwise be financially eligible to receive general assistance to meet the relative's own need.

(2) The department shall not pay a spouse providing chore services to an incapacitated, eligible client more than the amount of a one-person standard for a continuing general assistance grant plus increases required by the legislature. Refer to WAC 388-29-100 for grant standards.

(3) In the contracted program, the department pays the contractor who ~~((directly))~~ pays the chore service provider. Refer to WAC 388-15-208.

(4) In the individual provider program, the department pays the client who pays the chore service provider. Refer to WAC 388-15-208.

(a) The department pays an hourly wage for the actual number of hours worked on all chore service tasks. The hourly wage rate shall be four dollars and seventy-six cents per hour beginning September 1, 1987, and five dollars and fifteen cents per hour beginning September 1, 1988.

(b) When providing meals for the chore service provider is an additional cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

~~((9))~~ (c) The department shall pay only after the department verifies service delivery.

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—Persons in medical institutions, amending WAC 388-29-125;

that the agency will at 10:00 a.m., Tuesday, July 26, 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 July 27, 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 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12, 1988. The meeting site is in a location which is barrier free.

Dated: June 21, 1988

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend WAC 388-29-125.

Purpose of the Rule or Rule Change: To increase the clothing and personal incidentals (CPI) for persons in medical institutions by \$5.00.

Reason These Rules are Necessary: To have the CPI be the same for all clients in institutions. The CPI has already been increased \$5.00 for SSI clients.

Statutory Authority: RCW 74.08.090.

Summary of the Rule or Rule Change: Increase the CPI \$5.00 for persons in medical institutions from \$36.62 to \$41.62.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Susan Herring, Research Analyst 2, Division of Income Assistance, phone 753-4911, mailstop OB-31C.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 2588, filed 1/22/88)

WAC 388-29-125 STANDARDS OF ASSISTANCE—PERSONS IN MEDICAL INSTITUTIONS. Effective ~~((January 1, 1986))~~ July 1, 1988, 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-six))~~ forty-one dollars and sixty-two cents.

WSR 88-13-107
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 21, 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 Payment—Eligibility provider defined, amending WAC 388-87-005 and Medical provider agreement, amending WAC 388-87-007;

that the agency will at 10:00 a.m., Tuesday, July 26, 1988, in the OB-2 Auditorium, 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 July 27, 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 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12 1988. The meeting site is in a location which is barrier free.

Dated: June 21, 1988

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-87-005 and 388-87-007.

Purpose: To clarify enrollment requirements for providers of medical care services and add dental hygienists as an eligible Medicaid provider group.

Reason: Current regulations are vague and change in policy.

Statutory Authority: RCW 74.08.090.

Summary: Nothing in WAC 388-87-005 shall require DMA to enroll all eligible providers. DMA may terminate a provider contract without advance notice if it can document a violation of law or contract. When contracting for the provision of Title XIX services DMA must satisfy all the requirements of the standard form contract. WAC 388-87-005 (1)(a) is amended to include dental hygienists as an eligible Medicaid provider group.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules are not necessary as a result of a new state of federal law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2501, filed 6/1/87)

WAC 388-87-005 PAYMENT—ELIGIBLE PROVIDERS DEFINED. (1) ~~((Eligible))~~ The following providers ((are)) shall be eligible for enrollment to provide medical care services:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, nursing, chiropractic, dental hygiene, or physical therapy((:));

(b) A hospital currently licensed by the department((:));

(c) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility((:));

(d) A licensed pharmacy((:));

(e) A home health services agency certified ~~((by the department))~~ according to chapter 70.126 RCW;

(f) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the Medicare requirements for such participation((:));

(g) A company or individual ((f)), not excluded in subsection (3) of this section((:)), supplying items vital to the provision of medical care services such as ambulance service, oxygen, eyeglasses, other appliances, or approved services, not otherwise covered by this section;

(h) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program((:));

(i) A ~~((certified))~~ qualified and approved center for the detoxification of acute alcoholic conditions((:));

(j) A ~~((certified))~~ qualified and approved outpatient clinical community mental health center, an approved inpatient psychiatric facility, drug treatment center, or Indian health service clinic((:));

(k) A Medicare certified rural health clinic((:));

(l) Approved prepaid health maintenance, prepaid health plans and/or health insuring organizations((:)); and

(m) An out-of-state provider of services listed in subsection (1)(a) through (k) of this ~~((subsection))~~ section subject to conditions specified in WAC 388-87-105.

(2) Under the mandatory and discretionary provision of RCW 74.09.530, the services of the following practitioners shall not be furnished to applicants or recipients:

(a) Sanipractors;

(b) Naturopaths;

(c) Homopaths;

(d) Herbalists;

(e) Masseurs or manipulators;

(f) Christian Science practitioners or theological healers; and

(g) Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

(3) Conditions of eligibility((:)).

(a) Nothing in this section shall bind the department to enroll all eligible providers capable of delivering covered services. The department shall demonstrate its plan for service delivery creates adequate access to covered services.

(b) When a provider has a restricted professional license or ~~((previ-
 ously))~~ has been terminated, excluded, or suspended from the Medicare/Medicaid programs, the department shall not authorize provider

eligibility ~~((shall be authorized only if))~~ unless the department has determined ~~((that))~~ the violations ~~((that led))~~ leading to the sanction or license restriction are not likely to be repeated. In ~~((making this))~~ its determination, the department shall consider ~~((, among other factors;))~~ whether the provider has been convicted of offenses related to the delivery of ~~((medical care which were))~~ professional or other services not considered during the development of the previous sanction ~~((by Medicare, Medicaid, or state or local licensing authorities)).~~

~~((fb))~~ (c) The department shall not reinstate in the medical assistance program, a provider ~~((that has been))~~ suspended from Medicare or suspended ~~((at the direction of))~~ by the department of health and human services (DHHS) until notified by DHHS ~~((notifies the department))~~ that the provider may be reinstated.

~~((e))~~ (d) Nothing in this subsection shall preclude the department from denying ~~((authorization))~~ provider enrollment if, in the opinion of the medical director, division of medical assistance, the provider constitutes a danger to the health and safety of recipients.

AMENDATORY SECTION (Amending Order 2198, filed 1/30/85)

WAC 388-87-007 MEDICAL PROVIDER AGREEMENT. The department shall offer the medical care program ~~((is offered))~~ through the use of ~~((certified))~~ enrolled providers of medical and other covered services. To be ~~((certified))~~ enrolled, a provider ~~((must))~~ shall be licensed, if required, to provide said services, ~~((must))~~ shall meet the conditions of eligibility defined in WAC 388-87-005, and ~~((must))~~ shall sign and submit a standard contract form to the department ~~((stating his/her intention))~~ agreeing to participate in the program according to the terms of this section. This contract form and participation by the provider according to the terms of this section shall constitute the agreement between the department and the provider. ~~((Certified))~~ The department shall issue contract provider numbers to enrolled providers ~~((shall be issued a provider number by the department))~~ which is authorization to participate in the medical care program. Providers who participate in the medical care program ~~((by providing services to recipients of medical assistance and billing the department for such services))~~ are bound by the rules and standards set forth in this section and as issued by the department.

(1) Providers shall keep all records necessary to disclose the extent of services the provider furnishes to recipients of medical assistance.

(2) Providers shall furnish the department with any information it may request regarding payments claimed by the provider for furnishing services to recipients of medical assistance.

(3) The provider shall bill according to instructions issued by the department and accept payment for services according to the schedule of maximum allowances, the drug formulary and other applicable maximum payment levels or schedules. Such payment shall constitute complete remuneration for such services.

(4) The provider shall refund to the recipient any payment received directly from the recipient for services for which the department is responsible for payment. The ~~((departments))~~ department shall limit its responsibility for payment of services provided in a retroactive period, as defined in WAC 388-80-005, ~~((is limited))~~ to cases in which the cost of the services has not been otherwise paid. ~~((However;))~~ It is appropriate, but not required, that a provider refund to a recipient any payment received in a retroactive period ~~((, if he/she later becomes eligible))~~ of eligibility for Medicaid ~~((on a retroactive basis))~~. Such refund would be for services for which the department would otherwise be responsible for payment. After refunding to the recipient, the provider may bill the department. Upon receipt of a medical coupon that identifies the patient as eligible ~~((on a retroactive basis))~~ retroactively, the provider ~~((may))~~ shall not bill the recipient for any unpaid charges for covered services remaining from the retroactive period.

(5) ~~((Each))~~ Provider billing invoices submitted to the department ~~((by a provider))~~ shall contain the following language and verification: "I hereby certify under penalty of perjury, that the material furnished and service rendered is a correct charge against the state of Washington; the claim is just and due; that no part of the same has been paid and I am authorized to sign for the payee; and that all goods furnished and/or services rendered have been provided without discrimination on the grounds of race, creed, color, sex, religion, national origin, marital status, or the presence of any sensory, mental or physical handicap."

(6) Providers shall render all services without discrimination on the grounds of race, creed, color, sex, religion, national origin, ~~((creed;))~~

marital status, or the presence of any sensory, mental or physical handicap.

(7) The department ~~((may))~~ shall give a thirty-day written notice of action to suspend or withdraw the provider's number and contract authorization to participate in the medical care program ~~((upon thirty days written notice to the provider))~~. The thirty-day notice shall not be required if:

(a) A provider is convicted of a criminal offense related to participation in the Medicare/Medicaid program ~~((if his/her));~~ or

(b) The provider's license is suspended or revoked ~~((if));~~ or

(c) Federal funding is revoked ~~((;));~~ or ~~((if))~~

(d) By investigation, the department can document a violation of law or contract; or

(e) In the opinion of the medical director, division of medical assistance, the quality of care provided is such that the health and safety of recipients is endangered.

(8) Providers shall render all services according to the applicable sections of the Revised Code of Washington, the Washington Administrative Code, federal regulations and program instructions issued by the department.

(9) Nothing in this section shall preclude the department and any provider or provider group or association from jointly negotiating or entering into another form of written agreement for provision of medical care services to eligible recipients. If such a contract involves the payment of Title XIX funds, the contract shall satisfy all requirements of the standard form contract as modified by any applicable federal waivers.

(10) The provider must meet the disclosure of ownership requirements of WAC 388-87-008.

WSR 88-13-108

EMERGENCY RULES

BOARD OF HEALTH

[Order 313, Resolution No. 313—Filed June 21, 1988]

Be it resolved by the Washington State Board of Health, acting at the Tacoma Room, West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to amendments to chapter 248-100 WAC, Communicable and certain other diseases; and WAC 248-100-207, 248-100-208 and 248-100-209, HIV testing and counseling requirements.

We, the Washington State Board of Health, 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 E2SSB 6221 mandates the adoption of rules by the State Board of Health establishing minimum standards for HIV testing, counseling and the related definitions. The State Board of Health finds that such rules must be in place before mandated regional implementation of the bill is possible. WAC 248-100-016 amends the confidentiality regulations to conform to E2SSB 6221.

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 Board of Health as authorized in chapter 70.24 RCW and RCW 43.20.050.

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 June 13, 1988.

By John A. Beare, M.D., M.P.H.
Secretary

NEW SECTION

WAC 248-100-207 HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING—ORDERING—LABORATORY SCREENING—INTERPRETATION—REPORTING. (1) Except for blind seroprevalence studies allowed in chapter 70.24 RCW, any person ordering or prescribing an HIV test for another shall:

(a) Provide or refer for pretest counseling as described in WAC 248-100-209, and

(b) Obtain or ensure informed separate consent of the individual to be tested prior to ordering or preceding an HIV test, except as provided in chapter 70.24 RCW; and

(c) Provide or refer for post-test counseling as described in WAC 248-100-209 if HIV test is positive for or suggestive of HIV infection.

(2) Laboratories and other places where HIV testing is performed shall demonstrate complete and satisfactory participation in an HIV proficiency testing program approved by the department laboratory quality assurance section, mail stop B17-9, Seattle, Washington 98104.

(3) The department laboratory quality assurance section shall accept substitutions for EIA screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

(4) Medical laboratories testing for the presence of HIV shall:

(a) Send an HIV test prevalence results report by telephone or in writing to the department office on AIDS (MS B17-9, Seattle, Washington 98104), quarterly or more often; and

(b) Include in the report:

(i) Number of samples tested;

(ii) Number of samples repeatedly reactive by enzyme immuno assay (EIA);

(iii) Number of samples tested by western blot assay (WBA) or other confirmatory test as approved by department office on AIDS;

(iv) Number of positive test results by WBA or other confirmatory test as approved by department office on AIDS;

(v) Number of specimens tested by viral culture, and

(vi) Number of positive test results from viral cultures.

(5) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) HIV is isolated by viral culture technique, or

(b) HIV antibodies are identified by a sequence of tests which are reactive and include:

(i) A repeatedly reactive screening test such as the enzyme immunoassay (EIA); and

(ii) An additional, more specific, assay such as a positive western blot assay (WBA) or other tests as defined and described in the AIDS office manual, April, 1988, DSHS, mail stop LP-20, Olympia, Washington 98504.

(c) Such information consists of relevant, pertinent facts communicated in such a way that it will be readily understood by the recipient.

NEW SECTION

WAC 248-100-208 COUNSELING STANDARD—AIDS COUNSELING. (1) Principal health care providers shall counsel or ensure AIDS counseling for:

(a) Each pregnant patient; and

(b) Each patient seeking treatment of a sexually transmitted disease.

(2) Drug treatment programs under chapter 69.54 RCW shall provide or ensure provision of AIDS counseling for each person in a drug treatment program.

(3) Health care providers, persons, and organizations providing AIDS counseling shall:

(a) Assess the behaviors of each individual counseled for risk of acquiring and transmitting human immunodeficiency virus (HIV);

(b) Maintain a nonjudgmental environment during counseling which:

(i) Considers the individual's particular circumstances; and

(ii) Is culturally, linguistically, and developmentally appropriate to the individual being counseled.

(c) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(d) Provide or ensure provision of personalized risk reduction education to individuals who:

(i) Are men who engaged in anal intercourse with other men;

(ii) Used intravenous substances at any time since 1977;

(iii) Engaged in sex for money or drugs at any time since 1977;

(iv) Have had sexual and/or needle-sharing contact with persons listed in subsection (3)(d)(i), (ii), and (iii) of this section;

(v) Have been exposed to or known to have had a sexually transmitted disease at any time since 1977;

(vi) Are at increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control;

(vii) Are enrolled in a drug treatment program under chapter 69.54 RCW; or

(viii) Received multiple transfusions of blood, plasma, or blood products from 1977 to 1985.

(e) Encourage individuals assessed to be at other than virtually no risk of HIV infection to:

(i) Receive pretest counseling; and

(ii) Consider confidential or anonymous voluntary HIV testing if appropriate.

(iii) "Virtually no risk of HIV infection" means persons with medical histories absent of and reporting none of the following factors:

- (A) Transfusion with blood or blood products at any time since 1977;
 - (B) Residence at any time in countries where HIV is considered endemic since 1977;
 - (C) Unprotected sex between men at any time since 1977;
 - (D) use of intravenous substances at any time since 1977, especially when sharing needles and syringes;
 - (E) Engagement in sex for money or drugs at any time since 1977;
 - (F) Sexual and/or needle-sharing contacts at any time since 1977 with persons listed in subsection (3)(e)(iii)(C), (D), and (E) of this section;
 - (G) Exposure to a sexually transmitted disease; and
 - (H) Increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control.
- (4) Persons and organizations providing AIDS counseling may provide additional or more comprehensive counseling than required in this section.

NEW SECTION

WAC 248-100-209 COUNSELING STANDARDS—HUMAN IMMUNODEFICIENCY VIRUS (HIV) PRETEST COUNSELING—HIV POST-TEST COUNSELING. (1) Health care providers and other persons providing pretest counseling shall:

- (a) Assess the individual's risk of acquiring and transmitting HIV by evaluating information about the individual's possible risk-behaviors;
- (b) Provide at least one individual counseling session prior to HIV testing.
- (2) When an individual is assessed by a counselor or health care provider as "virtually no risk of HIV infection," as defined in WAC 248-100-208 (3)(e)(iii), a counselor or the health care provider shall, in addition to subsection (1)(a) of this section:
 - (a) Maintain a nonjudgmental environment during counseling which:
 - (i) Considers the individual's particular circumstances; and
 - (ii) Is culturally, linguistically, and developmentally appropriate to the individual being counseled.
 - (b) Explain the nature, purpose, value, and reason for the HIV tests;
 - (c) Explain the possible effect of a positive HIV test result on employment and insurance;
 - (d) Develop and maintain a system of referral and make referrals that:
 - (i) Are accessible and confidential for those counseled;
 - (ii) Are acceptable to and supportive of those counseled;
 - (iii) Provide assistance to those counseled in maintaining risk reduction behaviors.
 - (e) Provide at least one individual counseling session at the time HIV test results are disclosed for individuals testing positive; and
 - (f) Maintain disclosure and confidentiality requirements in WAC 248-100-016.
- (3) If the individual is assessed by a health care provider to be other than "virtually no risk of HIV infection," as defined in WAC 248-100-208 (3)(e)(iii), the

person providing pretest counseling shall maintain requirements in subsection (1) and (2) of this section and:

- (a) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;
- (b) Provide personalized risk reduction education to individuals who:
 - (i) Are men engaging in unprotected intercourse with other men at any time since 1977;
 - (ii) Used intravenous substances at any time since 1977, especially those sharing needles and syringes;
 - (iii) Engaged in sex for money or drugs at any time since 1977;
 - (iv) Have had sexual and/or needle-sharing contacts at any time since 1977 with persons listed in subsection (3)(b)(i), (ii), and (iii) of this section;
 - (v) Have been exposed to or diagnosed with a sexually transmitted disease;
 - (vi) Are at increased risk of HIV infection by definition of United States Public Health Services, Centers for Disease Control;
 - (vii) Are required by chapter 70.24 RCW to receive HIV counseling and testing.
- (c) Inform any individual planning to be tested for HIV of the need to notify sexual and needle-sharing partners if test results are positive;
- (d) Advise individuals listed in subsection (3)(b)(i), (ii), and (iii) of this section not to donate or sell blood, blood products, semen, organs, or other body tissues; and
- (e) Emphasize or re-emphasize the following counseling messages:
 - (i) Do not share intravenous drugs, needles, and syringes;
 - (ii) Do not engage in behaviors in which blood, vaginal fluid, semen, or any other body fluid which may contain blood is exchanged;
 - (iii) Condoms, even if used properly, do not supply absolute protection from HIV infection;
 - (iv) Condoms may reduce risk of HIV infection if the condom is:
 - (A) Latex and used with a water-based lubricant rather than an oil-based lubricant, if a lubricant is used;
 - (B) Used in conjunction with spermicide during vaginal or anal intercourse; and
 - (C) Worn from start to finish of vaginal, oral, and anal intercourse.
 - (v) The sexual behaviors having highest risk for HIV infection are those involving the exchange of blood or semen, especially receptive anal and vaginal intercourse;
 - (vi) Anal intercourse may increase the risk of condom failure and HIV infection;
 - (vii) The following will eliminate or decrease the risk of HIV infection:
 - (A) Sexual abstinence;
 - (B) A mutually monogamous relationship between uninfected people; and
 - (C) Reducing the number of sexual partners while following safer sex guidelines.
 - (viii) Infected women should postpone pregnancy until more is known about how to prevent prenatal and perinatal transmission of HIV infection;
 - (ix) Sexual negotiation skills can be learned to enhance risk reduction; and

(x) Other sexually transmitted diseases, especially those causing genital ulcers, may increase the risk of acquiring or transmitting HIV infection.

(f) Make those counseled aware HIV retesting at a later date may be necessary or recommended.

(4) Persons providing post-test counseling shall:

(a) Follow requirements in subsection (1) of this section;

(b) Provide at least one individual counseling session at the time HIV test results are disclosed for individuals:

(i) Testing positive for HIV; or

(ii) Reporting practice of behaviors listed in (3)(b)(i), (ii), and (iii) of this section.

(c) If the individual being counseled tested positive for HIV infection:

(i) Offer to assist persons in notifying partners;

(ii) Offer referral of partners for testing and counseling, as appropriate;

(iii) Develop or adopt a system to avoid documenting the names of referred partners in the permanent record of the individual being counseled; and

(iv) Offer referral for alcohol and drug and mental health counseling, including suicide prevention, if appropriate.

(v) Refer for tuberculosis screening.

**WSR 88-13-109
EMERGENCY RULES
BOARD OF HEALTH**

[Order 314, Resolution No. 314—Filed June 21, 1988]

Be it resolved by the Washington State Board of Health, acting at the Tacoma Room, West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to:

Amd ch. 248-100 WAC Communicable and certain other diseases.

Amd WAC 248-100-011 Definitions.

Amd WAC 248-100-016 Confidentiality.

We, the Washington State Board of Health, 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 E2SSB 6221 mandates the adoption of rules by the State Board of Health establishing minimum standards for HIV testing, counseling and the related definitions. The State Board of Health finds that such rules must be in place before mandated regional implementation of the bill is possible. WAC 248-100-016 amends the confidentiality regulations to conform to E2SSB 6221.

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 Board of Health as authorized in chapter 70.24 RCW and RCW 43.20.050.

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 June 13, 1988.

By John A. Beare, M.D.
Secretary

AMENDATORY SECTION (Amending Order 308, filed 3/16/88)

WAC 248-100-011 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of chapter 248-100 WAC:

(1) "Acquired immunodeficiency syndrome (AIDS)" means an illness characterized by the diseases and conditions defined and described by the Centers for Disease Control, U.S. Public Health Services, Morbidity and Mortality Weekly Report (MMR), August 14, 1987, Volume 36, Number 1S.

(2) "AIDS counseling" means counseling directed toward:

(a) Increasing the individual's understanding of acquired immunodeficiency syndrome; and

(b) Assessing the individual's risk of HIV acquisition and transmission; and

(c) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.

(3) "Board" means the Washington state board of health.

((2)) (4) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others, but who does not have symptoms of the disease.

((3)) (5) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

((4)) (6) "Category A disease or condition" means a reportable disease or condition of urgent public health importance, a case or suspected case of which must be reported to the local or state health officer immediately at the time of diagnosis or suspected diagnosis.

((5)) (7) "Category B disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer no later than the next working day following date of diagnosis.

((6)) (8) "Category C disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer within seven days of diagnosis.

((7)) (9) "Child day care facility" or "day care center" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(10) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct

or indirect means including transmission via an intermediate host or vector, food, water, or air.

~~((8))~~ (11) "Contact" means a person exposed to an infected person, animal, or contaminated environment which might provide an opportunity to acquire the infection.

~~((9))~~ "Child day care facility" or "day care center" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

~~((10))~~ (12) "Department" means the Washington state department of social and health services.

~~((11))~~ (13) "Food handler" means any person preparing, processing, handling, or serving food or beverages for people other than members of his or her household.

~~((12))~~ (14) "Food service establishment" means any establishment where food or beverages are prepared for sale or service on the premises or elsewhere, and any other establishment or operation where food is served or provided for the public with or without charge.

~~((13))~~ (15) "Health care facility" means:

(a) Any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, maternity homes, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establishments, clinics, or other settings where one or more health care providers practice, and

(b) In reference to a sexually transmitted disease, other settings as defined in chapter 70.24 RCW.

~~((14))~~ (16) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care (including persons) who is:

(a) Licensed or certified in this state under Title 18 RCW ((to practice medicine, podiatry, chiropractic, optometry, osteopathy, nursing, midwifery, dentistry, physician assistants, and)); or

(b) Is military personnel providing health care within the state regardless of licensure.

~~((15))~~ (17) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 248-100-207.

(18) "Infection control measures" means the management of infected persons, persons suspected to be infected, and others in such a manner as to prevent transmission of the infectious agent.

~~((16))~~ (19) "Isolation" means the separation or restriction of activities of infected persons, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

~~((17))~~ (20) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any medical laboratory.

~~((18))~~ (21) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

~~((19))~~ (22) "Local health officer" means the individual having been appointed under chapter 70.05 RCW

as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

~~((20))~~ (23) "Medical laboratory" means any facility analyzing specimens of original material from the human body for purposes of patient care.

~~((21))~~ (24) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

~~((22))~~ (25) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

~~((23))~~ (26) "Post-test counseling" means counseling after the HIV test when results are provided and directed toward:

(a) Increasing the individual's understanding of human immunodeficiency virus (HIV) infection;

(b) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection; and

(c) Encouraging the individual testing positive to notify persons with whom there has been contact capable of spreading HIV.

(27) "Pre-test counseling" means counseling provided prior to HIV testing and aimed at:

(a) Helping an individual to understand:

(i) Ways to reduce the risk of human immunodeficiency virus (HIV) infection;

(ii) The nature, purpose, and value of HIV testing;

(iii) The significance of the results of HIV testing; and

(iv) The dangers of HIV infection; and

(b) Assessing the individual's ability to cope with the results of HIV testing.

(28) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

~~((24))~~ (29) "Quarantine" means the separation or restriction on activities of a person having been exposed to or infected with an infectious agent, to prevent disease transmission.

~~((25))~~ (30) "Reportable disease or condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer.

~~((26))~~ (31) "School" means a facility for programs of education as defined in RCW 28A.31.102 (preschool and kindergarten through grade twelve).

~~((27))~~ (32) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

(a) Acute pelvic inflammatory disease;

(b) Chancroid;

(c) Chlamydia trachomatis infection;

(d) Genital and neonatal herpes simplex;

(e) Genital human papilloma virus infection;

(f) Gonorrhea;

(g) Granuloma inguinale;

- (h) Hepatitis B infection;
(i) Human immunodeficiency virus infection (HIV)
and acquired immunodeficiency syndrome (AIDS);
(j) Lymphogranuloma venereum;
(k) nongonococcal urethritis (NGU); and
(l) Syphilis.

(33) "State health officer" means the person designated by the secretary of the department to serve as state-wide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

~~((28))~~ (34) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

~~((29))~~ (35) "Unusual communicable disease" means a communicable disease which is not commonly seen in the state of Washington but which is of general public health concern including, but not limited to, Lassa fever, smallpox, typhus, and yellow fever.

~~((30))~~ (36) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry and practicing animal health care.

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-016 CONFIDENTIALITY. Identifying information about any individual with a reportable disease or condition pursuant to chapter 248-100 WAC shall be protected by persons with knowledge of such identity.

(1) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with sexually transmitted disease may disclose identity of a person or release identifying information only as specified in chapter 70.24 RCW.

(2) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with a reportable disease or condition, other than those specified in subsection (1) of this section, shall release identifying information only to other individuals responsible for protecting the health and well being of the public through control of communicable and certain other diseases.

~~((2))~~ (3) Local and state health department personnel shall maintain individual case reports as confidential records consistent with WAC 248-100-091.

~~((3))~~ (4) The Washington state public health laboratory, other laboratories approved as public health referral laboratories, and any persons, institutions, or facilities submitting specimens or records containing patient identifying information shall maintain the identifying information accompanying submitted laboratory specimens as confidential records.

~~((4))~~ (5) Statistical summaries and epidemiologic studies based on individual case reports may be public information provided no individual is identified.

WSR 88-13-110
 ADOPTED RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 2635—Filed June 21, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcoholism detoxification programs, amending chapter 388-40 WAC.

This action is taken pursuant to Notice No. WSR 88-10-042 filed with the code reviser on May 4, 1988. 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 74.50.010 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.50 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 June 17, 1988.

By Leslie F. James, Director
 Administrative Services

Chapter 388-40 WAC
~~((DETOXIFICATION))~~ ALCOHOL/DRUG PROGRAMS

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-040 FINANCIAL ELIGIBILITY REQUIREMENTS. (1) An applicant/recipient of ADATSA shall:

~~((1))~~ (a) Be at least eighteen years of age,

~~((2))~~ (b) Be a resident of the state of Washington as defined in WAC 388-26-055 and either a United States citizen or alien who:

~~((a))~~ (i) Is lawfully admitted for permanent residence; or

~~((b))~~ (ii) Is otherwise permanently residing in the United States under color of law; or

~~((c))~~ (iii) Has been granted temporary residency status under the Immigration Reform and Control Act.

~~((3))~~ (c) Furnish the department with his or her Social Security number. If the applicant cannot furnish a Social Security number because it has not been issued or is not known, he or she shall apply for a number prior to authorization of assistance~~((and))~~. The applicant shall provide the Social Security number to the department upon receipt.

~~((4))~~ (d) Meet the same income and resource eligibility requirements as for the general assistance-unemployable (GA-U) program~~((The department shall exempt the first eighty-five dollars plus one-half of the remainder of total gross monthly earned income in determining eligibility and the amount of assistance for ADATSA))~~, except persons excluded from GA-U under

WAC 388-37-010 because they are recipients of federal aid may be eligible for ADATSA residential treatment services.

(2) Applicants/recipients placed in an alcohol or drug congregate care facility shall meet the payment and procedural requirements set forth in WAC 388-15-568. However, the department shall not require recipients receiving services in an intensive alcoholism/drug treatment program of thirty days or less, as defined in WAC 275-19-020, to participate in the cost of care.

(3) The department shall require recipients with income in excess of the clothing and personal incidental standard to contribute that excess toward the cost of their care in a recovery house, extended care recovery house, or long-term care or drug residential treatment facility beginning the month following the month of admission. The department shall compute this participation amount according to the rules applicable to the program under which the benefits are received.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-080 ADATSA ASSESSMENT CENTERS—ROLE. (1) ADATSA assessment centers ((are)) shall be responsible for ((the administration of ADATSA services)) diagnostic evaluation and placement; they ((are)) shall not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth in WAC 275-19-185, conduct a face to face diagnostic assessment of the ((application)) applicant to:

(a) Determine incapacity based on alcoholism or drug addiction; and

(b) Determine whether ((to place)) the incapacitated applicant ((on)) is willing and able to undergo a course of treatment or ((to provide)) desires shelter or medical assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Arrange all placements ((as required)) into treatment and/or shelter facilities;

(b) Provide ongoing case monitoring of treatment and/or shelter services; and

(c) Notify the community services office promptly of all placement or eligibility status changes.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-090 ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS. (1) The department shall offer ADATSA treatment services to eligible applicants/recipients incapacitated by alcoholism or drug addiction ((shall be offered ADATSA treatment services)).

(2) The department shall limit treatment services ((are limited)) to a total of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) ((Treatment is provided in a continuum of three phases as follows:

(a) Phase one: Intensive inpatient treatment, not to exceed thirty days;

(b) Phase two: Sixty days of residential recovery house treatment; and

(c) Phase three: Ninety days of outpatient treatment))

The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures in WAC 275-19-185.

(4) ((Alcohol residential treatment programs that are structured to periods of ninety days of treatment may combine phases one and two for a total of ninety days of residential care)) Treatment may consist of residential and/or outpatient services.

(5) ((Drug residential treatment programs that are structured to periods of ninety days or more of treatment may combine phases one, two, and three for a total of one hundred eighty days of)) The department shall limit residential ((care)) treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(6) ((In order to)) An applicant/recipient shall qualify for up to six months of outpatient treatment services((, the)) if the assessment center determines that residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed in a less structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient ((must have first participated in phases one and two of treatment within the same twenty-four month period)). The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) ADATSA recipients who withdraw from treatment for any reason ((must apply for readmission to treatment through)) shall be subject to termination and shall reapply and/or be re-referred to the assessment center if they wish further ADATSA services.

(a) Recipients who drop out of treatment in the intensive inpatient phase ((phase one) shall) may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase ((phase two or three) shall) may be ((readmitted only)) required to return to the modality from which they dropped out((;

for the remainder of the time allotted for that phase) or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients who demonstrate an inability to remain abstinent in outpatient treatment.

(c) Recipients who have been absent from ((phase one)) inpatient treatment or ((phase two)) other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to reapply for readmittance through the assessment center.

((8) Recipients in the inpatient or recovery house treatment modality shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(9) Recipients in the outpatient treatment modality shall be eligible for a treatment stipend for housing and other living expenses:

(a) The stipend amount shall be based on the current payment standard for public assistance recipients; and

(b) The community services office shall issue this stipend directly to the outpatient facility as custodial payee.)

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-40-095 ADATSA TREATMENT—LIVING ALLOWANCE. (1) ADATSA recipients in residential treatment shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(2) ADATSA recipients in the outpatient treatment modality shall be eligible for a treatment stipend for housing and other living expenses.

(a) The department shall base the stipend amount on the current payment standard for public assistance recipients;

(b) The department shall issue this stipend directly to the outpatient facility as custodial (protective) payee; and

(c) The department shall not authorize the use of any treatment stipend to pay for shelter in a dormitory setting not requiring sobriety as a condition of residence.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-100 ADATSA SHELTER SERVICES. (1) The department shall provide shelter services ((shall be available)) to eligible ADATSA applicants/recipients:

(a) Who refuse treatment; or

(b) Who have exhausted their six months of treatment in a twenty-four month period; or

(c) Who are in temporary need of shelter pending placement into a treatment facility((, or pending SSI approval)).

(2) ((A shelter placements shall be arranged by the assessment center in shelters contracted for by the department)) "Shelter services" or "shelter assistance" means shelter for ADATSA recipients in a facility under contract with the department to provide room and board in a supervised living arrangement, normally in a group or dormitory setting. The department shall limit ADATSA shelter services to shelter assistance in these contracted facilities unless the recipient meets the criteria described in subsections (3) and (4) of this section.

(3) The department shall provide shelter assistance for independent housing and basic needs through a protective payee or vendor payment for any ADATSA recipient who is in one or more of the following circumstances:

(a) Recipients wishing treatment, but who are on waiting lists for placement, may receive temporary shelter assistance in independent housing until the scheduled date of admittance into treatment. The department shall compute the amount of this temporary assistance by prorating the monthly payment standard by the actual number of days of assistance needed prior to placement. Recipients failing to appear for the scheduled treatment shall not be eligible for further "waiting list" assistance for a period of one year.

(b) Recipients living in counties where no contracted shelter beds are available may receive shelter assistance in their own housing arrangement until shelter beds become available.

(c) Recipients who have been continuously eligible for and have been receiving assistance under the general assistance-unemployable program since July 25, 1987, who transfer to ADATSA after March 21, 1988, may receive shelter assistance to continue in their present living situation.

(4) The department shall provide assistance for independent housing only to recipients who will be residing in a permanent residential structure. These recipients must also have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person or entity to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

(5) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(6) Recipients receiving contracted shelter services who subsequently leave shelter without notice for more than seventy-two hours, or are disciplinarily discharged from the facility, shall be subject to termination.

(a) Upon re-application and/or re-referral, the assessment center shall again offer treatment as appropriate. If the applicant/recipient is ineligible for or refuses treatment, the assessment center shall offer another shelter placement if available. "Available" shelter for purposes of this section shall mean the existence of vacant shelter beds within the county; it shall not refer to whether or not a particular person is accepted or rejected from a facility based on a prior disciplinary record.

(i) As long as there are vacant shelter beds in the county, even though the shelter or shelters may refuse to accept the applicant/recipient, the applicant/recipient shall be ineligible for any financial assistance.

(ii) If there are no vacant shelter beds within the county, the applicant/recipient shall be eligible for shelter assistance in independent housing through a protective payee.

(b) Applicants/recipients who are denied shelter assistance under the provisions of this subsection shall be ineligible for ADATSA financial assistance until they accept treatment or can be placed into a vacant shelter bed. These applicants/recipients may receive ADATSA medical assistance as long as all other eligibility factors are met.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-40-110 ADATSA PROTECTIVE PAYEE REQUIREMENTS. (1) The department shall pay the assistance needs of recipients receiving outpatient treatment or shelter assistance in independent housing by protective payee or vendor payment. See WAC 388-33-455 for protective payee selection criteria.

(2) An ADATSA protective payee shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends or shelter assistance. Disbursement of funds shall be made first to assure the basic needs of shelter, utilities, food, clothing, and personal incidentals are met.

(a) The protective payee for a recipient in outpatient treatment shall encourage the recipient to participate in the decision-making process as a means of developing good money management, budgeting, and decision-making skills. The amount of control or latitude exercised shall depend upon the recipient's status in treatment and the judgment of the protective payee as to how responsible the recipient has become.

(b) The protective payee for a shelter assistance recipient shall first disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.

(3) The protective payee may use his or her discretion on the method of disbursing to the recipient any cash balance remaining from the recipient's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the recipient at regular intervals throughout the month.

(4) In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

WSR 88-13-111

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 88-35—Filed June 21, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 harvestable numbers of salmon are available, and these rules are adopted at the recommendation of the Columbia River Compact.

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

This rule is promulgated pursuant to RCW 75.08.080 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 June 21, 1988.

By Sally Hicks
for Joseph R. Blum
Director

NEW SECTION

WAC 220-32-03000Q COLUMBIA RIVER SALMON SEASONS BELOW BONNEVILLE. (1) *Notwithstanding the provisions of WAC 220-32-022, WAC 220-32-030, WAC 220-32-031, WAC 220-32-031, WAC 220-32-040 and WAC 220-32-041, it is unlawful for a person to take or possess salmon, sturgeon, or shad taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E, except as provided for in this section:*

(a) *Areas 1A and 1B – open 6:00 p.m. June 21 to 6:00 p.m. June 22, 1988*

(b) *Lawful gear is restricted to single wall floating gill nets with a 4-1/2 inch maximum mesh.*

(c) *It is lawful to sell only sockeye salmon, shad, sturgeon of lawful commercial size, and chinook less than or equal to 24 inches in length taken in this fishery.*

(2) *It is unlawful to fish for salmon with monofilament gill net webbing or to have on the boat monofilament gill net webbing while fishing for salmon in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E.*

(3) *Notwithstanding the provisions of WAC 220-32-036 the closed river mouth areas within Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E are:*

(a) *All tributaries flowing into the Columbia River.*

(b) Cowlitz River – those waters between points one mile below and one-half mile above the mouth of the Cowlitz River and lying within one-quarter mile of the Washington shore.

(c) Kalama River – those waters between points one mile downstream and one-half mile upstream of the mouth of the Kalama River and lying within one-quarter mile of the Washington shore.

(d) Lewis River – those waters between points one mile downstream and one-half mile upstream of the mouth of the Lewis River and lying within one-quarter mile of the Washington shore.

(e) Elokomina River – those waters of Elokomina Slough, Steamboat Slough and the Columbia River lying inside, northerly and easterly of a straight line, from group flashing white light "35" located on Price Island to flashing green light "39" located on Hunting Island, and northly and easterly of a line between flashing light "33" on Price Island to quick flashing green light "31" on the Washington shore.

(f) Washougal River – those waters of the Columbia River Slough lying upstream from a line projected true north from the most western tip of Lady Island to the mainland.

(g) Sandy River – those waters of the Columbia River lying within one-quarter mile from shore between a point one mile below the mouth of the Sandy River and a point at the upper easterly bank at the mouth of the Sandy River.

(h) Big Creek – those waters at the mouth of Big Creek from the Oregon Bank across Knappa Slough to Karlson Island about one-quarter mile above the easterly bank of Big Creek, at the Gnat Creek deadline downstream to the east end of Minaker Island which is about 3/4 mile below the west bank at the mouth of Big Creek.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

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.

NEW SECTION

WAC 220-32-05100B COLUMBIA RIVER SALMON SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-051 and WAC 220-32-052, effective immediately, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas, 1F, 1G or 1H, except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may:

(a) fish from 12:00 noon June 22 to 6:00 p.m. June 25, 1988.

(b) only use gill net gear containing mesh smaller than 4-1/2.

(c) sell sockeye salmon, shad, sturgeon and chinook salmon less than or equal to 24 inches in length taken in this fishery.

(2) During the seasons specified in subsection 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300

(3) Notwithstanding the provisions of WAC 220-32-058, closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between approximately 0.8 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River to 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to three-quarters mile downstream from the western shoreline.

(4) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

WSR 88-13-112
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD
 [Filed June 22, 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:

- Amd WAC 251-14-020 Employee organization filing requirements.
- Amd WAC 251-14-052 Union shop representative election.
- Amd WAC 251-14-058 Union shop requirements.
- Amd WAC 251-10-170 Dismissal—Union shop—Notice—Recision.
- New WAC 251-01-258 Nonassociation fee.
- New WAC 251-01-367 Representation fee.
- Amd WAC 251-01-445 Union shop.
- Rep WAC 251-01-455 Union shop representation fee;

that the agency will at 9 a.m., Thursday, August 4, 1988, in the Viking Addition 350, Western Washington University, Bellingham, 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 28B.16.100.

The specific statute these rules are intended to implement is chapter 28B.16 RCW.

This notice is connected to and continues the matter in Notice No. WSR 88-06-075 filed with the code reviser's office on March 2, 1988.

Dated: June 22, 1988
 By: John A. Spitz
 Director

WSR 88-13-113
NOTICE OF PUBLIC MEETINGS
HIGHER EDUCATION PERSONNEL BOARD
 [Memorandum—June 22, 1988]

NOTICE OF LOCATION CHANGES

- August 4 Change from Peninsula College
1502 East Lauridsen Boulevard
Port Angeles, Washington
- Change to Western Washington University
Bellingham, Washington
- December 1 Change from Western Washington University
Bellingham, Washington
- Change to The Evergreen State College
Olympia, Washington

WSR 88-13-114
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD
 [Filed June 22, 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 Sick leave—Use, amending WAC 251-22-110;

that the agency will at 9 a.m., Thursday, August 4, 1988, in the Viking Addition 350, Western Washington University, Bellingham, 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 28B.16.100.

The specific statute these rules are intended to implement is chapter 28B.16 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 3, 1988.

Dated: June 22, 1988
 By: John A. Spitz
 Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on June 22, 1988, and is filed pursuant to RCW 34.04.025.

Title: WAC 251-22-110 Sick leave—Use.

Description of Purpose: To allow use of sick leave when an employee's child under 18 years of age has a health condition that requires attention.

Statutory Authority: RCW 28B.16.100 to implement the provision of that section.

Specific Statute this Rule in Intended to Implement: RCW 49.12.005.

Summary of Rule: An employee may use accrued sick leave to care for a child (per WAC 251-22-172 child is defined as son, daughter, stepchild, or a child in the custody of and residing in the home of the employee) who is

under 18 years of age with a health condition that requires treatment or supervision, or to make arrangements for extended care.

Reasons Supporting Proposed Action: Mandated by SHB 1319.

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, 234-3730 scan or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Higher Education Personnel Board staff, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: This change is not a result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 156, filed 7/1/87)

WAC 251-22-110 SICK LEAVE—USE. (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness or injury of a family member fifteen years of age and over that require the presence of the employee to provide immediate necessary care of the patient or to make arrangements for extended care. The personnel officer may authorize sick leave use as provided in this subsection for other than family members. The applicability of "emergency," "necessary care" and "extended care" shall be made by the personnel officer.

(d) ~~((Because of illness or injury of a child (as identified in WAC 251-01-208) under the age of fifteen when the employee's presence is required to provide necessary care or to make arrangements for extended care.))~~ To care for a child (as identified in WAC 251-01-172) under the age of eighteen with a health condition that requires treatment or supervision, or to make arrangements for extended care.

(e) Because of illness or injury of a family member who is a person of disability and requires the employee's presence to provide short-term care or to make arrangements for extended care.

(f) To provide emergency child care for the employee's child (as identified in WAC 251-01-172). Such use of sick leave is limited to three days in any calendar year, unless extended by the personnel officer, and shall be used only as specified in WAC 251-22-117.

(g) Because of a family member's death that requires the assistance of the employee in making arrangements for interment of the deceased.

(h) For personal medical, dental, or optical appointments or for family members' appointments when the presence of the employee is required, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement.

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 88-13-115
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD
 [Filed June 22, 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 lead, amending WAC 251-01-255;

that the agency will at 9 a.m., Thursday, August 4, 1988, in the Viking Addition 350, Western Washington University, Bellingham, 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 28B.16.100.

The specific statute these rules are intended to implement is chapter 28B.16 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 3, 1988.

Dated: June 22, 1988

By: John A. Spitz
 Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on June 22, 1988, and is filed pursuant to RCW 34.04.025.

Title: WAC 251-01-255 Lead.

Description of Purpose: The purpose of revising the "lead" definition is to: Provide clarity in terms of interpreting specifications and definitions; provide consistency with the reality of how work is configured and specifications are interpreted; and provide consistency with the HEPB typical work statements.

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 modification is intended to provide a more clear and consistent definition of a "lead" worker.

Reasons Supporting Proposed Action: Same as "Description of Purpose."

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, 234-3730 scan or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Higher Education Personnel Board staff, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: This change is not a result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 147, filed 4/22/86)

WAC 251-01-255 LEAD. An employee who ~~((performs the same duties as other employees in his/her work group and))~~, in addition to his/her other duties, has responsibility regularly to assign((s)), instruct((s)) and check((s)) the work of ((the employees)) others as a significant part of his/her work time. This definition is not intended to cover professional employees who provide direction to support staff.

WSR 88-13-116
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed June 22, 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 following sections are repealed from the Washington Administrative Code:

Rep	WAC 173-303-284	Notice of intent.
Rep	WAC 173-303-285	Location standards.
Rep	WAC 173-303-286	Performance standards.
Rep	WAC 173-303-901	Response to requests for public records.

The performance standards section and the section on request for public records will be renumbered and re-adopted. The notice of intent rules will be amended and re-adopted, and the previously superseded siting standards (WAC 173-303-420) containing the minimum federal requirements for the siting of dangerous waste facilities will be re-adopted;

that the agency will at 2:00 p.m., Tuesday, July 26, 1988, in the Hearing Room, Building No. 1, 4224 Sixth Avenue S.E., Lacey, WA, and at 7:00 p.m., Wednesday, July 27, 1988, in the Spokane Public Health Building, Room 140, Auditorium, West 1101 College Avenue, Spokane, WA, and at 7:00 p.m., Thursday, July 28, 1988, in the Hallmark Inn, Sage Room, Moses Lake, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 6, 1988.

The authority under which these rules are proposed is chapter 70.105 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 1, 1988.

Dated: June 21, 1988
 By: Phillip C. Johnson
 Deputy Director

STATEMENT OF PURPOSE

Title: Chapter 173-303 WAC, Dangerous waste regulations.

Description of Purpose: N/A.

Statutory Authority: Chapter 70.105 RCW.

Summary of Rule: Repeal WAC 173-303-285, Location standards and reinstate the minimum federal requirements for the siting of dangerous waste management facilities.

Reasons Supporting Proposed Action: To prepare an environmental impact statement on the location standards and to allow redevelopment of those standards.

Agency Personnel Responsible for Drafting: Miles Kuntz, 459-6309; Implementation: Terry Husseman, 459-6316; and Enforcement: Marc Horton, 459-6053, all located at the Department of Ecology, mailstop PV-11.

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: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-120 RECYCLED, RECLAIMED, AND RECOVERED WASTES. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

- (i) Industrial ethyl alcohol that is reclaimed;
- (ii) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;
- (iii) Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some manner other than:
 - (A) Being burned for energy recovery; or
 - (B) Being used in a manner constituting disposal, except when such use is by the generator on his own property;
- (iv) Scrap metal;
- (v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;
- (vi) Oil reclaimed from dangerous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;

(vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;

(viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under WAC 173-303-515 (1)(d) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of dangerous waste in WAC 173-303-090.

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

- (i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or
- (ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500

through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

(d) Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits one or more of the characteristics of a dangerous waste; or

(ii) Is designated as DW solely through WAC 173-303-084 or 173-303-101 through 173-303-103; or

(iii) Is designated solely as W001, (see WAC 173-303-515);

(e) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(f) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling.

The recycling process itself is generally exempt from regulation unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060, and

(ii) WAC 173-303-370;

(d) Owners or operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

(i) For all recyclers, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395,

(B) WAC 173-303-420,

(C) WAC 173-303-800 through 173-303-840;

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650, and

(B) WAC 173-303-660.

NEW SECTION

WAC 173-303-281 NOTICE OF INTENT. (1) Purpose. The purpose of this section is to provide notification to the department, local communities and the public that the siting of a dangerous waste management facility is being considered. Also, to provide general information about the proposed facility owner/operator, the type of facility and the types of wastes to be managed and compliance with the siting standards.

(2) Applicability. This section applies to owners and operators of proposed facilities. This section also applies to owners and operators of existing facilities with interim or final status for which the department receives an application for expansion. As used in this section:

(a) "Proposed facility" means a facility that does not have interim or final status on the effective date of this section, and for which the owner/operator applies for an interim or final status permit, under WAC 173-303-805 or 173-303-806, after the effective date of this section;

(b) "Existing facility" means a facility for which an interim or final status permit has been issued by the department pursuant to WAC 173-303-805 or 173-303-806; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit, the

addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

This section does not apply to owners/operators of facilities or portions of facilities applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to mobile facilities for on-site cleanup at treatment, storage or disposal facilities undergoing closure, facilities operating under an emergency permit pursuant to WAC 173-303-804, or facilities for on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, or chapters 70.105, 70.105B, and 90.48 RCW.

(3) Notice of intent to file for a dangerous waste permit.

(a) The notice of intent to be prepared by the owners/operators of the applicable facilities shall consist of:

(i) The name, address, and telephone number of the owner, operator, and corporate officers;

(ii) The location of the proposed facility or expansion on a topographic map with specifications as detailed in WAC 173-303-806 (4)(a)(xviii);

(iii) A brief description of the types and amounts of wastes to be managed annually;

(iv) A brief description of the major equipment items proposed, if any, and the waste management activities requiring a permit or revision of an existing permit;

(v) An environmental checklist from the State Environmental Policy Act rules, chapter 197-11 WAC;

(vi) Documentation that the proposed facility or expansion site meets the requirements of WAC 173-303-420, Siting standards. Preliminary ground water characterization based on available data shall also be provided;

(vii) For informational purposes a complete summary of compliance violations of permit conditions at hazardous waste management facilities owned or operated by the applicant, or its parent company, during the ten calendar years preceding the permit application. Along with the summary of compliance violations, as issued by appropriate state or federal regulatory agencies, the applicant shall also submit responses to past violations and any written correspondence with regulatory agencies regarding compliance status of any hazardous waste management facility owned or operated by the applicant or parent company of the owner or operator. A more detailed compliance record must be provided upon request by the department;

(viii) For informational purposes the need for the proposed facility or expansion shall be demonstrated by one of the following methods:

(A) Current overall capacity within Washington is inadequate for dangerous wastes generated in Washington as determined by regional or state dangerous waste management plans; or

(B) The facility is a higher priority management method, as described in RCW 70.105.150, than is currently in place or practical and available for the types of waste proposed to be managed; or

(C) The facility will add to the types of technology available or will reduce cost impacts (not to include transportation costs) to Washington generators for disposal of dangerous wastes; and

(ix) For informational purposes it shall be shown how the capacity of the proposed facility or expansion will affect the overall capacity within the state, in conjunction with existing facilities in Washington.

(b) The notice of intent shall be filed with the department, and copies shall be made available for public review, no less than one hundred fifty days prior to filing an application for a permit or permit revision. Public notification of the notice of intent to file shall be given at the time of filing by announcement in a daily newspaper within the area of the proposed facility or expansion for a minimum of fourteen consecutive days.

(c) Reserved.

NEW SECTION

WAC 173-303-283 PERFORMANCE STANDARDS. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards shall be used to determine whether

more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through 173-303-670.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

- (a) Degradation of ground water quality;
- (b) Degradation of air quality by open burning or other activities;
- (c) Degradation of surface water quality;
- (d) Destruction or impairment of flora and fauna outside the active portion of the facility;
- (e) Excessive noise;
- (f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;
- (g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;
- (h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and
- (i) Endangerment of the health of employees, or the public near the facility.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-420 ((RESERVED)) SITING STANDARDS.

(1) Purpose. This section provides criteria for the siting of dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility.

(2) Applicability. These siting standards will apply to all facilities which require a permit under WAC 173-303-805 and 173-303-806, or as otherwise limited in each of the applicable paragraphs of this section.

(3) Earthquake fault criteria.

(a) Active portions of new TSD facilities will not be located within two hundred feet of a fault which has had displacement in Holocene times. For facilities managing moderate risk waste only, engineering efforts, as approved by the department, may be substituted for the two hundred-foot buffer zone.

(b) As used in (a) of this subsection:

(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and

(iii) "Holocene" means the most recent epoch of the Quarternary period, extending from the end of the Pleistocene to the present.

(c) Facilities which are located in counties other than those listed below are assumed to be in compliance with this subsection.

Chelan	Grant	Lewis	Skagit
Clallam	Grays Harbor	Mason	Skamania
Clark	Jefferson	Okanogan	Snohomish
Cowlitz	King	Pacific	Thurston
Douglas	Kitsap	Pierce	Wahkiakum
Ferry	Kittitas	San Juan	Whatcom
			Yakima

(4) Floodplain criteria.

(a) A facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a one hundred-year flood, unless, in the case of facilities which manage DW only, the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes will be removed must be a facility permitted according to this chapter.

(b) For facilities which manage EHW, a facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any EHW by a one hundred-year flood. Contingency procedures for removal of EHW will not be deemed equivalent to engineered flood proofing.

(c) As used in (a) and (b) of this subsection:

(i) "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;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "One hundred-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90.58 RCW).

(a) Areas defined as "wetlands" under RCW 90.58.030 (2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste.

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility.

(6) Sole source aquifer criteria. No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(e) of the Safe Drinking Water Act (Public Law 93-523).

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-510 SPECIAL REQUIREMENTS FOR DANGEROUS WASTES BURNED FOR ENERGY RECOVERY. (1) Applicability.

(a) This section applies to dangerous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. Such dangerous wastes burned for energy recovery are termed "dangerous waste fuel." Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel. (These regulations do not apply, however, to gas recovered from dangerous waste management activities when such gas is burned for energy recovery.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only through the criteria of WAC 173-303-101 through 173-303-103; or

(C) Is a dangerous waste designated solely as W001.

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC 173-303-101 through 173-303-103 is subject to this section.

(ii) (Reserved.)

(2) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number; and

(ii) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in only the following devices;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(3) Standards applicable to generators of dangerous waste fuel.

(a) Generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who market dangerous waste fuel to a burner also are subject to subsection (5) of this section.

(c) Generators who are burners also are subject to subsection (6) of this section.

(4) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(5) Standards applicable to marketers of dangerous waste fuel.

Persons who market dangerous waste fuel are termed "marketers," and are subject to the following requirements. Marketers include generators who market dangerous waste fuel directly to a burner, persons who receive dangerous waste from generators and produce, process, or blend dangerous waste fuel from these dangerous wastes, and persons who distribute but do not process or blend dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (2) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Even if a marketer has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, he must renotify to identify his dangerous waste fuel activities.

(c) Storage.

(i) For short term accumulation by generators who are marketers of dangerous waste fuel, the applicable provisions of WAC 173-303-200 or 173-303-201;

(ii) For all marketers who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395; (~~and~~)

(B) WAC 173-303-420; and

(C) WAC 173-303-800 through 173-303-840;

(iii) For marketers with interim status permits who store dangerous waste fuel, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For marketers with final status permits who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660.

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a marketer initiates a shipment of dangerous waste fuel;

(e) Required notices.

(i) Before a marketer initiates the first shipment of dangerous waste fuel to a burner or another marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(A) The burner or marketer has notified the department under WAC 173-303-060 and identified his waste-as-fuel activities; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (2)(b) of this section.

(ii) Before a marketer accepts the first shipment of dangerous waste fuel from another marketer, he must provide the other marketer with a one-time written and signed certification that he has notified the department under WAC 173-303-060 and identified his dangerous waste fuel activities; and

(f) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-210 and 173-303-380, a marketer must keep a copy of each certification notice he receives or sends for three years from the date he last engages in a dangerous waste fuel marketing transaction with the person who sends or receives the certification notice.

(6) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (2)(b) of this section that burn dangerous fuel are "burners" and are subject to the following requirements:

(a) Prohibitions. The prohibitions under subsection (2)(b) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Even if a burner has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, he must renotify to identify his dangerous waste fuel activities.

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395; (~~and~~)

(B) WAC 173-303-420; and

(C) WAC 173-303-800 through 173-303-840;

(iii) For burners under interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For burners with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660.

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department under WAC 173-303-060 and identified his waste-as-fuel activities; and

(ii) He will burn the fuel only in a boiler or furnace identified in subsection (2)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives dangerous waste fuel from that marketer.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-520 SPECIAL REQUIREMENTS FOR RECLAIMING SPENT LEAD ACID BATTERY WASTES. This section applies to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries").

(1) Persons who generate, transport, or who store spent batteries but do not reclaim them are subject only to the requirements of WAC 173-303-050, 173-303-145 and 173-303-960 if such spent batteries are going to a battery reclaimer.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

(i) WAC 173-303-280 (2) and (3);

(ii) WAC 173-303-283;

(iii) WAC 173-303-290;

(~~(iii)~~) (iv) WAC 173-303-310 through 173-303-360;

(~~(iv)~~) (v) WAC 173-303-380;

(~~(v)~~) (vi) WAC 173-303-390 (2) and (3);

(~~(vi)~~) (vii) WAC 173-303-395;

(~~(vii)~~) (~~WAC 173-303-285;~~)

(viii) WAC (~~173-303-286~~) 173-303-420; and

(ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

(i) WAC 173-303-600 through 173-303-650; and

(ii) WAC 173-303-660.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-560 MINIMUM STANDARDS FOR FACILITIES MANAGING SPECIAL WASTE. In no case will the department approve standards for facilities managing special waste which do not include, at a minimum, the following applicable requirements:

(1) WAC 173-303-060;

(2) WAC (~~173-303-286~~) 173-303-283;

(3) WAC 173-303-350;

(4) WAC 173-303-360;

(5) WAC 173-303-370;

(6) WAC 173-303-380; and

(7) WAC 173-303-390.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-600 FINAL FACILITY STANDARDS. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-670, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-670, the final facility standards include WAC 173-303-280 through 173-303-395 and 173-303-420.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) Owners or operators of POTWs which treat, store, or dispose of dangerous waste provided they follow the permit-by-rule requirement of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); and

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(4) The owner or operator of a final status TSD facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those special wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-650 SURFACE IMPOUNDMENTS. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with

subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator shall submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report shall be certified by a licensed professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) ~~((A)) A surface impoundment shall be located so as to meet the buffer zone requirements of WAC 173-303-285.~~

~~((g))~~ A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

~~((h))~~ (g) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

~~((i))~~ (h) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

~~((j))~~ (i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.

(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents;

(iii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and

(iv) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(e)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

(d) During the post-closure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-800 PERMIT REQUIREMENTS FOR DANGEROUS WASTE MANAGEMENT FACILITIES. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste shall, when required by this chapter, obtain a permit covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040(75)), and for any facility which at closure does not meet the removal or decontamination

limits of WAC 173-303-610 (2)(b), post-closure care period in accordance with WAC 173-303-800 through 173-303-840.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC ((~~173-303-285~~) 173-303-420 and ((~~173-303-286~~) 173-303-283) are met.

(4) Permits shall be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 shall have the same meanings as set forth in 40 CFR 270.2.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-802 PERMITS BY RULE. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste reports;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit shall have a permit by rule, except as provided in (b) or (c) of this subsection, if he complies with:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-310, 173-303-350, 173-303-360, 173-303-370, 173-303-380 (1)(d), and 173-303-390 of the general facility standards; and

(iii) WAC ((~~173-303-286~~) 173-303-283, performance standards.

(b) A facility is not required to have a permit by rule under this subsection if the owner or operator can demonstrate to the department's satisfaction that:

(i) The facility already has an existing permit (or permits) issued under federal, state or local authority (such as NPDES, state waste discharge, pretreatment, etc.); and

(ii) The permit (or permits) include, either separately or jointly in the case of multiple permits, all requirements specified in (a) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to either (a) or (b) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit;

(iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under this chapter (~~(173-303-WAC)~~) are necessary to provide such protection; or

(iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-805 INTERIM STATUS PERMITS. (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an interim status permit application the requirements of WAC (~~(173-303-284)~~) 173-303-281 must be met.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under this chapter (~~(173-303-WAC)~~) provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection shall not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed at a facility with interim status if the owner/operator submits to the department a revised Part A permit application prior to accepting the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility with interim status may be made if the owner or operator submits a revised Part A permit application prior to such a change, the requirements of WAC (~~(173-303-284)~~) 173-303-281 are met and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility with interim status, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes, the requirements of WAC (~~(173-303-284)~~) 173-303-281 are met and the department approves the change because:

(i) It is necessary to prevent a threat to public health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, or federal regulations.

(d) Changes in the ownership or operational control of a facility with interim status may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265 subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in the ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(f) Any revisions to an existing interim status permit must be made on the applicable Part A form(s), (forms 1 or 3 are available from the department). The owner and operator certification page must be signed and included with those sections completed.

~~((g) Demonstration zone. The authority provided under this subsection will allow the department to request additional information. Such additional information shall be deemed necessary to ensure protection of public health and the environment when a facility expansion is proposed to be located within a demonstration zone. Information requests by the department under this subsection are not subject to justification and must be provided by the facility owner/operator. Owners or operators of existing interim status facilities applying for expansion~~

may be required to submit additional detailed information as determined by the department on a case-by-case basis. Such information must address specific features of the environment and human populations in the vicinity of a proposed expansion and predict potential negative impacts on public health and the environment. The information submitted must also demonstrate to the department's satisfaction how those impacts, and any other impacts identified by the department, will be prevented or mitigated. The burden of proof for such demonstrations will be solely on the applicant. Such information may be required for facility expansions proposed to be located within a demonstration zone defined as:

(i) ~~Any hazardous waste management facility proposed to be located within one-half mile of the property boundary of a designated municipal watershed for public water systems utilizing surface water as governed by WAC 248-54-225, Watershed control; or~~

(ii) ~~Any landfill, land treatment, surface impoundment, waste pile or incineration facility proposing to locate within one-quarter mile of the boundary of a wetland, city or county park, recreation area, natural preserve or archaeological or historic area as defined under WAC 173-303-285 (5)(f).~~

(h) ~~The information required under (g) of this subsection will be used by the department to determine if preventative or mitigative measures will be required, beyond those proposed by the facility owner or operator, regarding structural design, operation and maintenance procedures, monitoring and detection systems or other measures as the department deems necessary and reasonable to protect public health and the environment.~~

(i) ~~In addition to the above approvals and requirements the owners and operators of interim status facilities proposing to expand after the effective date of these amendments and under the conditions described in subsection (7)(g) of this section must also apply for a Part B final facility permit application pursuant to WAC 173-303-806.)~~

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application;

(d) Violation of applicable interim status standards; or

(e) A determination that the permit applicant has failed to ~~(demonstrate that the proposed facility expansion complies with the location standards of WAC 173-303-285; or~~

(f) ~~A determination by the department that the permit applicant has not demonstrated to the department's satisfaction, as required under subsection (7)(g) of this section, that the proposed facility expansion will not result in significant adverse impacts on public health or the environment, or in failure to)) satisfy the performance standards of WAC ((173-303-286)) 173-303-283.~~

(9) Special waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.

AMENDATORY SECTION (Amending Order 87-37, filed 3/11/88)

WAC 173-303-806 FINAL FACILITY PERMITS. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

- (a) Final status TSD facilities;
- (b) Special waste management facilities; and
- (c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC ((173-303-284)) 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (h) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640(4), 173-303-650(4), 173-303-660 (4) and (5), 173-303-665(4), and 173-303-670(7).

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(8), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages; and

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information;

~~(A) ((The facility owner or operator shall demonstrate compliance with the seismic standard WAC 173-303-285 (5)(a)(i)).) In order to determine the applicability of the earthquake fault criteria (WAC 173-303-420(3)) the owner or operator of a new facility must identify the county in which the facility is proposed to be located.~~

~~(Comment: If the county is not listed in WAC 173-303-420 (3)(c), no further information is required to demonstrate compliance with WAC 173-303-420(3).)~~

~~(B) If the facility is proposed to be located in a county listed in WAC 173-303-420 (3)(c), the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:~~

~~(I) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within three thousand feet of a facility are present, based on data from: Published geologic studies; aerial reconnaissance of the area within a five-mile radius from the facility; and an analysis of aerial photographs covering a three thousand foot radius of the facility; and if needed to clarify the above data, a reconnaissance based on walking portions of the area within three thousand feet of the facility; or~~

~~(II) If faults (to include lineations) which have had displacement in Holocene time are present within three thousand feet of a facility, no faults pass within two hundred feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within two hundred feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than two hundred feet from portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within three thousand feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.~~

~~((B)) (C) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one hundred-year flood.~~

~~(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the one hundred-year floodplain. However, if the FIA map excludes an area (usually areas of the floodplain less than two hundred feet in width), these areas must be considered and a determination made as to whether they are in the one hundred-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator~~

~~must use equivalent mapping techniques to determine whether the facility is within the one hundred-year floodplain, and if so located, what the one hundred-year flood elevation would be.)~~

~~((C)) (D) Owners and operators of facilities located in the one hundred-year floodplain must provide the following information:~~

~~(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as the consequence of a one hundred-year flood;~~

~~(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;~~

~~(III) If applicable, and in lieu of (a)(xi)((D)) (E)(I) and (II) of this subsection, a detailed description of procedures to be followed to remove dangerous waste to safety before the facility is flooded, including: Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility; a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive dangerous waste in accordance with the regulations under this chapter; the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and the potential for accidental discharges of the waste during movement.~~

~~((D)) (E) Owners and operators of all facilities shall provide all information necessary to demonstrate compliance with the shoreline siting standards of WAC ((173-303-285 (5)(f)(iii))) 173-303-420(5).~~

~~((E)) (F) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with the sole source aquifer siting standards of WAC ((173-303-285 (5)(d)(ii))) 173-303-420(6).~~

~~((F) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with all other siting standards of WAC 173-303-285.~~

~~(G) Demonstration zone. The authority provided under this subsection will allow the department to request additional information during review of an application for completeness under WAC 173-303-840. Such additional information shall be deemed necessary to ensure protection of public health and the environment when a facility is proposed to be located within a demonstration zone. Information requests by the department under this subsection are not subject to justification and must be provided by the facility owner/operator. The department may request additional detailed information of facility owners or operators to ensure compliance with WAC 173-303-285, Location standards and 173-303-286, Performance standards. The content and extent of such information requests shall be determined on a case-by-case basis and may extend beyond design and operation specifications set forth in this chapter. The additional information submitted must address specific features of the environment and human populations in the vicinity of a proposed facility and predict potential negative impacts on public health and the environment due to natural or man-made hazards regarding that facility. The information submitted must also demonstrate to the department's satisfaction how those impacts, and any other impacts identified by the department, will be prevented or mitigated. The burden of proof for such demonstrations will be solely on the applicant. Such information may be required for facilities proposed to be located within a demonstration zone defined as:~~

~~(H) Any hazardous waste management facility proposed to be located within one-half mile of the property boundary of a designated municipal watershed for public water systems utilizing surface water as governed by WAC 248-54-225, Watershed control; or~~

~~(I) Any landfill, land treatment, surface impoundment, waste pile or incineration facility proposing to locate within one-quarter mile of the boundary of a wetland, city or county park, recreation area, natural preserve, archaeological or historic area as defined under WAC 173-303-285 (5)(f).~~

~~(H) The information required under (a)(G) of this subsection will be used by the department to determine if preventative or mitigative measures will be required, beyond those proposed by the facility owner or operator, regarding structural design, operation and maintenance procedures, monitoring and detection systems or other measures as the department deems necessary and reasonable to protect public health and the environment.)~~

~~(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how~~

training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
- (F) Orientation of the map (north arrow);
- (G) Legal boundaries of the TSD facility site;
- (H) Access control (fences, gates);
- (I) Injection and withdrawal wells both on-site and off-site;
- (J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
- (K) Barriers for drainage or flood control; and
- (L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste surface impoundments, waste piles, land treatment units, and landfills except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e.,

the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in WAC 173-303-9905, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient

information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken; and

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) References to design standards or other available information used (or to be used) in design and construction of the tank;

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);

(iii) Tank dimensions, capacity, and the basis for selecting shell thickness, certified by a licensed professional engineer;

(iv) A diagram of piping, instrumentation, and process flow;

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(vi) Description of procedures for handling incompatible ignitable, or reactive wastes, including the use of buffer zones;

(vii) A description of the containment system to demonstrate compliance with WAC 173-303-640 (2)(b) and, where applicable, WAC 173-303-640(8). Show at least the following:

(A) Drawings and a description of the basic design parameters, dimensions, and materials of construction of the containment system;

(B) Capacity of the containment system relative to the design capacity of the tank(s) within the system;

(C) Description of the system to detect leaks and spills, and how precipitation and run-on will be prevented from entering into the detection system;

(viii) A description of the marking and/or labeling of tanks; and

(ix) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9).

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department shall approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(vii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of WAC 173-303-665(7) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(8) will be complied with;

(viii) If bulk of noncontainerized liquid waste or wastes containing free liquids is to be landfilled, an explanation of how the requirements of WAC 173-303-665(9) will be complied with;

(ix) If containers of dangerous waste are to be landfilled, an explanation of how the requirements of WAC 173-303-665(10) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-665(11).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC (~~(173-303-284)~~) 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under (~~WAC 173-303-806~~) subsection (7) of this section.

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term, or for denying a permit application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination; or

(d) A determination that the permit applicant has failed to (~~demonstrate that the proposed facility complies with the location standards of WAC 173-303-285; or~~

~~(e) A determination by the department that the permit applicant has not demonstrated to the department's satisfaction, as required under subsection (4)(a)(xi)(G) of this section, that a facility at the proposed location will not result in significant adverse impacts on public health or the environment, or in failure to)) satisfy the performance standards of WAC (~~(173-303-286)~~) 173-303-283.~~

(13) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(14) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(15) Other requirements for final special waste and recycling facility permits. In lieu of issuing a final special waste or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities or WAC 173-303-550 through 173-303-560 for special waste facilities.

NEW SECTION

WAC 173-303-905 RESPONSE TO REQUESTS FOR PUBLIC RECORDS. RCW 42.17.320 requires that the department, when responding to requests for public records make such responses "promptly." The department often receives requests, submitted pursuant to chapter 42.17 RCW, for public records that exist because of the requirements of or actions mandated by this chapter (such public records are referred to as dangerous waste records). When the department receives requests for such dangerous waste records, then the department shall respond promptly, as required by RCW 42.17.320, and in no event will the response occur later than twenty working days after receipt of the public request submitted pursuant to chapter 42.17 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-303-284	NOTICE OF INTENT.
WAC 173-303-285	LOCATION STANDARDS.
WAC 173-303-286	PERFORMANCE STANDARDS.
WAC 173-303-901	RESPONSE TO REQUESTS FOR PUBLIC RECORDS.

WSR 88-13-117

ADOPTED RULES

GAMBLING COMMISSION

[Order 180—Filed June 22, 1988]

Be it resolved by the Washington State Gambling Commission, acting at Wenatchee, Washington, that it does adopt the annexed rules relating to repealing WAC 230-08-170.

This action is taken pursuant to Notice No. WSR 88-03-024 filed with the code reviser on January 12, 1988. 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 9.46.(8)(11)(14) [9.46.070 (8), (11) and (14)], 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 June 10, 1988.

By Frank L. Miller
Deputy Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-08-170 PUNCHBOARD AND PULL TAB RETENTION

WSR 88-13-118
ADOPTED RULES
LIQUOR CONTROL BOARD

[Order 253, Resolution No. 262—Filed June 22, 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, Washington 98504, that it does adopt the annexed rules relating to procedures for tax refunds, WAC 314-26-010.

This action is taken pursuant to Notice No. WSR 88-11-001 filed with the code reviser on May 5, 1988. 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 June 22, 1988.

By L. H. Pedersen
Chairman

AMENDATORY SECTION (Amending Order 40, filed 8/21/75)

WAC 314-26-010 PROCEDURES FOR TAX REFUNDS. The board may refund the tax on beer imposed by RCW 66.24.290, and the tax on wine imposed by RCW 66.24.210, when such taxpaid products have been deemed to be unsalable due to freight damage or other causes prior to sale to consumers, and are destroyed within the state. Such tax refunds are subject to the following conditions:

(1) An applicant for such refund shall notify the board of ((his)) the intention to destroy any such product, and furnish specific information concerning the proposed destruction of such stock. The notification shall include:

(a) The reason for the destruction (damaged product, overage product, etc.); and

(b) A complete inventory of all products to be destroyed on a form authorized by the board.

(2) No tax refund will be authorized for unsalable beer or wine unless the board has verified before destruction that such product because of its condition is unfit for sale, and that such taxes have been paid to the state.

(3) The quantity of beer or wine involved in such a request for tax refund, the amount of such refund, and

observation or certification by affidavit of the actual destruction of such stock must be confirmed by an authorized employee of the board before any such tax refund is granted.

(4) The certification required by this section shall be in the following form:

"Affidavit of non-retail licensees concerning compliance with RCW 66.24.305.

I, _____, having been duly sworn upon oath depose and say:

That I am aware that RCW 66.24.305 allows for refunds of taxes on unsalable wine and beer. The board may refund tax on wine imposed by RCW 66.24.210 and the tax on beer imposed by RCW 66.24.290, when such tax-paid products have been deemed to be unsalable and are destroyed within the state in accordance with procedures established by the board.

I have destroyed the products listed on the inventory attached and am requesting a tax refund therefore. I am aware that RCW 9A.72.030 provides that it is a crime (class C felony) for a person, with intent to mislead a public servant in the performance of their duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name: _____

Licensed Trade Name: _____

License or Certificate of Approval No.: _____

Date: _____

SUBSCRIBED AND SWORN TO Before me this _____ day of _____, 19_____.

Notary Public in and for
the State
of Washington, residing
at _____
My appointment expires: _____"

WSR 88-13-119
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed June 22, 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 San Juan County, amending WAC 173-19-360.

In addition to the public hearing scheduled for 1:00 p.m. Wednesday, July 20, 1988, in Lacey, Washington, the Department of Ecology will conduct a continuation of that hearing to be held on Monday, July 25, 1988, at 2:30 p.m. in Friday Harbor, Washington;

that the agency will at 1:00 p.m., Wednesday, July 20, 1988, in Room 273, Abbott Raphael Hall, St. Martin's College, Lacey, Washington, and at 2:30 p.m., Monday, July 25, 1988, at the County Commissioner's Hearing Room, County Courthouse Annex, Friday Harbor,

Washington, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 6, 1988.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 1, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-12-069 filed with the code reviser's office on May 31, 1988.

Dated: June 22, 1988

By: Phillip C. Johnson
Deputy Director

WSR 88-13-120

PROPOSED RULES

DEPARTMENT OF RETIREMENT SYSTEMS

[Filed June 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Retirement Systems intends to adopt, amend, or repeal rules concerning this notice proposes to adopt new rules under chapter 415-112 WAC, entitled Teachers' retirement board of trustees. WAC 415-112-330, entitled Amount of service credit, permits part-time community college teachers' members to receive pensions based on what their salary would have been if employed full time. This necessitates a more complete definition of full- and part-time service and a method for determining partial credit;

that the agency will at 2:00 p.m., Wednesday, July 27, 1988, in the Second Floor Conference Room, Department of Retirement Systems, 1025 East Union, Olympia, 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 41.32.270 and 41.31.010 (11)(ii) [41.32.010 (11)(ii)].

The specific statute these rules are intended to implement is RCW 41.32.270 and 41.32.010 (11)(ii).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Dated: June 14, 1988

By: Robert L. Hollister, Jr.
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 415-112-330.

Statutory Authority: Chapter 41.32 RCW, as amended by chapter 265, Laws of 1987.

Summary of Rule: Establishes a procedure for determining part-time service credit for certain members of the teachers' retirement system.

Description of the Purpose of the Rule: Permits part-time community college members of the teachers' retirement system to receive pensions based on what their salary would have been if employed full time. This necessitates a more complete definition of full- and part-time service and a method for determining partial credit.

Reasons for Supporting the Proposed Rule: Specifically required by the implementing statute adopted by the legislature.

Agency Personnel Responsible for Drafting and Enforcement: Robert L. Hollister, Jr., Director, Department of Retirement Systems, 1025 East Union, Olympia, WA, (206) 753-5281; and Implementation: MaryAgnes Braxmeyer, Administrative Assistant, Department of Retirement Systems, 1025 East Union, Olympia, WA, (206) 586-1718.

Name of the Governmental Agency Proposing the Rule: Department of Retirement Systems.

The Department of Retirement Systems has no additional comments regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule.

Rule is not Necessary to Comply with a Federal Law or a Federal or State Court Decision: No.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

NEW SECTION

WAC 415-112-330 AMOUNT OF SERVICE CREDIT. (1) This section shall apply only to persons who became members prior to October 1, 1977.

(2) For members who are employed as classroom teachers by a school district, a school year shall consist of one hundred eighty days. One year of service credit shall be granted to a member who is employed as a classroom teacher for one hundred forty-four or more days during a school year. A fractional year of credit shall be granted to a member who is employed for at least twenty days but less than one hundred forty-four days during a school year. The fraction shall be that produced by using the days employed as the numerator and one hundred eighty as the denominator. In the absence of an indication in the contract or elsewhere concerning what constitutes one day of employment, a classroom teacher shall be granted one day of credit for every six hours the teacher works and for which the teacher is compensated.

(3) For members who are employed as community college academic employees as defined by chapter 28B.52 RCW, a school year shall consist of at least three academic quarters or two semesters during a fiscal year. Academic employees shall be granted one full year of service credit for eighty percent of the full-time annual load as defined in their institution's negotiated agreement. In the absence of a definition of full-time annual load in the agreement, the official board-adopted college policy will apply. Percents of load of at least eleven percent (reported as not less than twenty days per fiscal year) and less than eighty percent (reported as eighty percent of the individual college academic calendar or one hundred thirty-four days per fiscal year, whichever is greater) will be applied pro rata. Percent of load will be converted to days for institution reporting and for retirement benefit calculation purposes. Nonacademic employees will have their service credit reported and benefits calculated based on actual days worked. Where there is no definition of full-time load in either the collective bargaining agreement or the official board-adopted college policy, service credit will be calculated pursuant to subsections (4) and (5) of this section.

(4) For members who are employed as community college classroom instructors, a school year shall consist of at least three academic quarters or two semesters during a fiscal year. Such a classroom instructor shall be granted one year of service credit for teaching thirty-

six quarter hours or twenty-four semester hours. A fractional year of credit shall be granted to such instructors who teach at least five but less than thirty-six quarter hours, or at least three but less than twenty-four semester hours. The fraction shall be that produced by using the quarter hours taught as the numerator and forty-five as the denominator, or the semester hours taught as the numerator and thirty as the denominator.

(5) Members who are not employed as classroom instructors and who are employed for one hundred forty-four or more days during a fiscal year shall be granted one year of service credit. A fractional year of credit shall be granted to a member who is employed for at least twenty days but less than one hundred forty-four days. The credit granted shall be the fraction produced by using the days employed as the numerator and one hundred eighty as the denominator. Where there is no indication in the contract or elsewhere concerning what constitutes one day of employment, one day of credit shall be granted for every eight hours the member works and for which the member is compensated: PROVIDED, That counselors and librarians who are employed by a community college district in an instructional position as defined in RCW 41.32.010 (11)(a)(ii) and paid on an hourly rate shall be granted one day of credit for every seven hours the member works and for which the member is compensated.

(6) The fact that a member is granted a fractional year of service credit under this section shall not be determinative as to whether that member was employed less than full time in a year used to determine benefits under RCW 41.32.497, 41.32.498, and 41.32.520, for purposes of determining whether the member held a bona fide part-time position and what earnable compensation the member would have received under RCW 41.32.011.

WSR 88-13-121

PROPOSED RULES

DEPARTMENT OF RETIREMENT SYSTEMS

[Filed June 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Retirement Systems intends to adopt, amend, or repeal rules concerning this notice proposes to amend that section of chapter 415-02 WAC, entitled Actuarial tables, schedules and factors, by adding new tables to cover options which have been previously authorized. The proposal sets forth in WAC the tables, schedules and factors currently being used by the Department of Retirement Systems to calculate benefits;

that the agency will at 2:00 p.m., Wednesday, July 27, 1988, in the Second Floor Conference Room, Department of Retirement Systems, 1025 East Union, Olympia, 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 41.04.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Dated: June 14, 1988

By: Robert L. Hollister, Jr.,
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section: Chapter 415-02 WAC, Actuarial tables, schedules and factors.

Statutory Authority: RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200.

Summary of Rule: This notice proposes to amend that section of chapter 415-02 WAC, entitled Actuarial tables, schedules and factors. The proposal sets forth in WAC the tables, schedules and factors currently being used by the Department of Retirement Systems to calculate benefits.

Description of the Purpose of the Rule: The passage of HB 1067 provided Plan I members of TRS an additional retirement option which would provide the same post retirement adjustment that exists in the Plan II of that system. The option can be elected in addition to the options provided in current law and will be calculated so as to be actuarially equivalent to the other options.

Reasons for Supporting the Proposed Rule: To provide a uniform procedure for administering existing law.

Agency Personnel Responsible for Drafting and Enforcement: Robert L. Hollister, Jr., Director, Department of Retirement Systems, 1025 East Union, Olympia, WA, (206) 753-5281; and Implementation: MaryAgnes Braxmeyer, Administrative Assistant, Department of Retirement Systems, 1025 East Union, Olympia, WA, (206) 586-1718.

Name of the Governmental Agency Proposing the Rule: Department of Retirement Systems.

The Department of Retirement Systems has no additional comments regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule.

Rule is not Necessary to Comply with a Federal Law or a Federal or State Court Decision: No.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

AMENDATORY SECTION (Amending Order 87-1, filed 3/11/87)

WAC 415-02-090 ACTUARIAL TABLES, SCHEDULES, AND FACTORS. This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems pursuant to the authority granted by RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065, and 43.43.200 for calculating optional retirement allowances of members of retirement systems administered by the director. These tables, schedules, and factors were adopted by the director upon the recommendation of and in light of the findings of the state actuary in his regular actuarial investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of such retirement systems. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from April 12, 1986 until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before April 12, 1986 shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the adoption of such new tables, schedules, and factors.

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

1	.9918
2	.9837
3	.9755
4	.9674
5	.9592
6	.9511
7	.9429
8	.9348
9	.9266
10	.9185
11	.9103
1 0	.9022
1 1	.8949
2	.8877
3	.8805
4	.8733
5	.8661
6	.8589
7	.8517
8	.8445
9	.8373
10	.8301
11	.8229
2 0	.8157
1 1	.8093
2 2	.8029
3 3	.7965
4 4	.7901
5 5	.7837
6 6	.7773
7 7	.7709
8 8	.7645
9 9	.7581
10 10	.7517
11 11	.7453
3 0	.7390
1 1	.7333
2 2	.7276
3 3	.7219
4 4	.7162
5 5	.7105
6 6	.7048
7 7	.6992
8 8	.6935
9 9	.6878
10 10	.6821
11 11	.6764
4 0	.6707
1 1	.6657
2 2	.6606
3 3	.6555
4 4	.6504
5 5	.6454
6 6	.6403
7 7	.6352
8 8	.6302
9 9	.6251
10 10	.6200
11 11	.6149
5 0	.6099

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I OPTION 1
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

25	.0059089
26	.0059257
27	.0059437
28	.0059629
29	.0059833
30	.0060051
31	.0060283
32	.0060531
33	.0060796
34	.0061078
35	.0061380
36	.0061702
37	.0062045
38	.0062412
39	.0062804
40	.0063221
41	.0063665
42	.0064135
43	.0064633
44	.0065160
45	.0065717
46	.0066304
47	.0066925
48	.0067579
49	.0068271
50	.0069001
51	.0069773
52	.0070590
53	.0071454
54	.0072369
55	.0073337
56	.0074363
57	.0075451
58	.0076606
59	.0077836
60	.0079147
61	.0080549
62	.0082052
63	.0083669
64	.0085413
65	.0087297
66	.0089334
67	.0091538
68	.0093920
69	.0096493
70	.0099272
71	.0102271
72	.0105505
73	.0108990
74	.0112743
75	.0116781
76	.0121122
77	.0125785
78	.0130787
79	.0136149
80	.0141897
81	.0148057
82	.0154658
83	.0161717
84	.0169230
85	.0177167
86	.0185452
87	.0193974
88	.0202596
89	.0211126
90	.0219458
91	.0227413
92	.0234886
93	.0241825
94	.0248232
95	.0254146
96	.0259627

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I OPTION 1
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0058390
21	.0058513
22	.0058643
23	.0058783
24	.0058931

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 PLAN I OPTION I
 MONTHLY BENEFIT per \$1.00 of ACCUMULATION

97	.0264737
98	.0269527
99	.0274037

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 PLAN II
 EARLY RETIREMENT FACTORS

0	0	1.0000
	1	.9913
	2	.9826
	3	.9740
	4	.9653
	5	.9566
	6	.9479
	7	.9393
	8	.9306
	9	.9219
	10	.9132
	11	.9046
1	0	.8959
	1	.8883
	2	.8806
	3	.8730
	4	.8654
	5	.8578
	6	.8501
	7	.8425
	8	.8349
	9	.8273
	10	.8197
	11	.8120
2	0	.8044
	1	.7977
	2	.7910
	3	.7843
	4	.7775
	5	.7708
	6	.7641
	7	.7574
	8	.7507
	9	.7439
	10	.7372
	11	.7305
3	0	.7238
	1	.7179
	2	.7119
	3	.7060
	4	.7000
	5	.6941
	6	.6882
	7	.6822
	8	.6763
	9	.6704
	10	.6644
	11	.6585
4	0	.6525
	1	.6473
	2	.6420
	3	.6367
	4	.6315
	5	.6262
	6	.6210
	7	.6157
	8	.6104
	9	.6052
	10	.5999
	11	.5946

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 PLAN II
 EARLY RETIREMENT FACTORS

5	0	.5894
	1	.5847
	2	.5800
	3	.5753
	4	.5707
	5	.5660
	6	.5613
	7	.5566
	8	.5519
	9	.5473
	10	.5426
	11	.5379
6	0	.5332
	1	.5291
	2	.5249
	3	.5207
	4	.5166
	5	.5124
	6	.5082
	7	.5041
	8	.4999
	9	.4957
	10	.4916
	11	.4874
7	0	.4832
	1	.4795
	2	.4758
	3	.4721
	4	.4683
	5	.4646
	6	.4609
	7	.4572
	8	.4535
	9	.4497
	10	.4460
	11	.4423
8	0	.4386
	1	.4352
	2	.4319
	3	.4286
	4	.4253
	5	.4219
	6	.4186
	7	.4153
	8	.4119
	9	.4086
	10	.4053
	11	.4019
9	0	.3986
	1	.3956
	2	.3926
	3	.3897
	4	.3867
	5	.3837
	6	.3807
	7	.3777
	8	.3747
	9	.3717
	10	.3688
	11	.3658
10	0	.3628
	1	.3601
	2	.3574
	3	.3547
	4	.3521
	5	.3494
	6	.3467
	7	.3440
	8	.3413
	9	.3386
	10	.3360
	11	.3333

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

11	0	.3306
	1	.3282
	2	.3258
	3	.3234
	4	.3209
	5	.3185
	6	.3161
	7	.3137
	8	.3113
	9	.3089
	10	.3065
	11	.3040
12	0	.3016
	1	.2994
	2	.2973
	3	.2951
	4	.2929
	5	.2907
	6	.2886
	7	.2864
	8	.2842
	9	.2820
	10	.2799
	11	.2777
13	0	.2755
	1	.2735
	2	.2716
	3	.2696
	4	.2676
	5	.2657
	6	.2637
	7	.2617
	8	.2598
	9	.2578
	10	.2559
	11	.2539
14	0	.2519
	1	.2501
	2	.2484
	3	.2466
	4	.2448
	5	.2430
	6	.2413
	7	.2395
	8	.2377
	9	.2359
	10	.2341
	11	.2324
15	0	.2306
	1	.2290
	2	.2274
	3	.2258
	4	.2242
	5	.2225
	6	.2209
	7	.2193
	8	.2177
	9	.2161
	10	.2145
	11	.2129
16	0	.2113
	1	.2098
	2	.2084
	3	.2069
	4	.2054
	5	.2040
	6	.2025
	7	.2011
	8	.1996
	9	.1981
	10	.1967
	11	.1952

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

17	0	.1938
	1	.1924
	2	.1911
	3	.1898
	4	.1885
	5	.1871
	6	.1858
	7	.1845
	8	.1831
	9	.1818
	10	.1805
	11	.1792
18	0	.1778
	1	.1766
	2	.1754
	3	.1742
	4	.1730
	5	.1718
	6	.1706
	7	.1694
	8	.1682
	9	.1670
	10	.1658
	11	.1646
19	0	.1634
	1	.1623
	2	.1612
	3	.1601
	4	.1590
	5	.1579
	6	.1568
	7	.1557
	8	.1546
	9	.1535
	10	.1524
	11	.1513
20	0	.1502
	1	.1492
	2	.1482
	3	.1472
	4	.1462
	5	.1452
	6	.1442
	7	.1432
	8	.1422
	9	.1412
	10	.1402
	11	.1392
21	0	.1382
	1	.1373
	2	.1364
	3	.1355
	4	.1345
	5	.1336
	6	.1327
	7	.1318
	8	.1309
	9	.1300
	10	.1291
	11	.1281
22	0	.1272
	1	.1264
	2	.1256
	3	.1247
	4	.1239
	5	.1231
	6	.1222
	7	.1214
	8	.1206
	9	.1197
	10	.1189
	11	.1181

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS

23	0	.1172
	1	.1165
	2	.1157
	3	.1149
	4	.1142
	5	.1134
	6	.1127
	7	.1119
	8	.1111
	9	.1104
	10	.1096
	11	.1088
24	0	.1081
	1	.1074
	2	.1067
	3	.1060
	4	.1053
	5	.1046
	6	.1039
	7	.1032
	8	.1025
	9	.1018
	10	.1011
	11	.1004
25	0	.0997
	1	.0991
	2	.0984
	3	.0978
	4	.0971
	5	.0965
	6	.0959
	7	.0952
	8	.0946
	9	.0939
	10	.0933
	11	.0927
26	0	.0920
	1	.0914
	2	.0909
	3	.0903
	4	.0897
	5	.0891
	6	.0885
	7	.0879
	8	.0873
	9	.0868
	10	.0862
	11	.0856
27	0	.0850
	1	.0845
	2	.0839
	3	.0834
	4	.0828
	5	.0823
	6	.0818
	7	.0812
	8	.0807
	9	.0802
	10	.0796
	11	.0791
28	0	.0785
	1	.0780
	2	.0775
	3	.0771
	4	.0766
	5	.0761
	6	.0756
	7	.0751
	8	.0746
	9	.0741
	10	.0736
	11	.0731

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS

29	0	.0726
	1	.0722
	2	.0717
	3	.0712
	4	.0708
	5	.0703
	6	.0699
	7	.0694
	8	.0690
	9	.0685
	10	.0681
	11	.0676
30	0	.0672
	1	.0667
	2	.0663
	3	.0659
	4	.0655
	5	.0651
	6	.0647
	7	.0642
	8	.0638
	9	.0634
	10	.0630
	11	.0626
31	0	.0621
	1	.0618
	2	.0614
	3	.0610
	4	.0606
	5	.0602
	6	.0598
	7	.0595
	8	.0591
	9	.0587
	10	.0583
	11	.0579
32	0	.0575
	1	.0572
	2	.0568
	3	.0565
	4	.0561
	5	.0558
	6	.0554
	7	.0551
	8	.0547
	9	.0543
	10	.0540
	11	.0536
33	0	.0533
	1	.0530
	2	.0526
	3	.0523
	4	.0520
	5	.0516
	6	.0513
	7	.0510
	8	.0507
	9	.0503
	10	.0500
	11	.0497
34	0	.0494
	1	.0491
	2	.0488
	3	.0485
	4	.0482
	5	.0479
	6	.0476
	7	.0473
	8	.0470
	9	.0467
	10	.0464
	11	.0461

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS

35	0	.0458
	1	.0455
	2	.0452
	3	.0449
	4	.0446
	5	.0444
	6	.0441
	7	.0438
	8	.0435
	9	.0433
	10	.0430
	11	.0427
36	0	.0424
	1	.0422
	2	.0419
	3	.0416
	4	.0414
	5	.0411
	6	.0409
	7	.0406
	8	.0404
	9	.0401
	10	.0399
	11	.0396
37	0	.0393
	1	.0391
	2	.0389
	3	.0386
	4	.0384
	5	.0382
	6	.0379
	7	.0377
	8	.0374
	9	.0372
	10	.0370
	11	.0367
38	0	.0365
	1	.0363
	2	.0361
	3	.0358
	4	.0356
	5	.0354
	6	.0352
	7	.0350
	8	.0347
	9	.0345
	10	.0343
	11	.0341
39	0	.0339
	1	.0337
	2	.0335
	3	.0333
	4	.0331
	5	.0329
	6	.0327
	7	.0325
	8	.0323
	9	.0321
	10	.0318
	11	.0316
40	0	.0314
	1	.0313
	2	.0311
	3	.0309
	4	.0307
	5	.0305
	6	.0303
	7	.0301
	8	.0299
	9	.0298
	10	.0296
	11	.0294

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS

41	0	.0292
	1	.0290
	2	.0289
	3	.0287
	4	.0285
	5	.0283
	6	.0282
	7	.0280
	8	.0278
	9	.0276
	10	.0275
	11	.0273
42	0	.0271
	1	.0270
	2	.0268
	3	.0266
	4	.0265
	5	.0263
	6	.0262
	7	.0260
	8	.0258
	9	.0257
	10	.0255
	11	.0254
43	0	.0252
	1	.0250
	2	.0249
	3	.0247
	4	.0246
	5	.0245
	6	.0243
	7	.0242
	8	.0240
	9	.0239
	10	.0237
	11	.0236
44	0	.0234
	1	.0233
	2	.0231
	3	.0230
	4	.0229
	5	.0227
	6	.0226
	7	.0224
	8	.0223
	9	.0222
	10	.0220
	11	.0219

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II OPTION 1
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0036396
21	.0036589
22	.0036791
23	.0037003
24	.0037225
25	.0037458
26	.0037702
27	.0037957
28	.0038226
29	.0038507
30	.0038803
31	.0039113
32	.0039440
33	.0039783
34	.0040144
35	.0040523
36	.0040923
37	.0041344

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 PLAN II OPTION I
 MONTHLY BENEFIT per \$1.00 of ACCUMULATION

38	.0041787
39	.0042254
40	.0042746
41	.0043264
42	.0043808
43	.0044380
44	.0044980
45	.0045609
46	.0046270
47	.0046963
48	.0047691
49	.0048456
50	.0049260
51	.0050105
52	.0050996
53	.0051933
54	.0052922
55	.0053964
56	.0055065
57	.0056229
58	.0057460
59	.0058766
60	.0060153
61	.0061630
62	.0063207
63	.0064896
64	.0066708
65	.0068657
66	.0070755
67	.0073014
68	.0075449
69	.0078071
70	.0080897
71	.0083939
72	.0087216
73	.0090743
74	.0094540
75	.0098624
76	.0103014
77	.0107731
78	.0112795
79	.0118228
80	.0124056
81	.0130308
82	.0137012
83	.0144186
84	.0151831
85	.0159917
86	.0168371
87	.0177086
88	.0185923
89	.0194688
90	.0203271
91	.0211489
92	.0219227
93	.0226428
94	.0233088
95	.0239245
96	.0244955
97	.0250278
98	.0255267
99	.0259962

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 PLAN I

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY OLDER	
0.970	-20	0.987
0.968	-19	0.985
0.965	-18	0.984
0.962	-17	0.982
0.958	-16	0.980
0.954	-15	0.978
0.950	-14	0.976
0.945	-13	0.974
0.941	-12	0.971
0.936	-11	0.969
0.931	-10	0.966
0.926	-09	0.963
0.921	-08	0.960
0.915	-07	0.957
0.910	-06	0.954
0.900	-05	0.948
0.890	-04	0.943
0.880	-03	0.937
0.864	-02	0.929
0.848	-01	0.920

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 PLAN I

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY YOUNGER	
0.838	0	0.914
0.827	1	0.907
0.817	2	0.901
0.809	3	0.897
0.803	4	0.893
0.790	5	0.885
0.784	6	0.881
0.778	7	0.878
0.765	8	0.869
0.759	9	0.865
0.753	10	0.862
0.748	11	0.858
0.743	12	0.855
0.729	13	0.846
0.724	14	0.842
0.719	15	0.839
0.714	16	0.836
0.700	17	0.826
0.695	18	0.823
0.691	19	0.820
0.687	20	0.817
0.683	21	0.814
0.679	22	0.811
0.675	23	0.808
0.671	24	0.805
0.667	25	0.802
0.663	26	0.799
0.659	27	0.796
0.655	28	0.793
0.651	29	0.790
0.647	30	0.787
0.643	31	0.784
0.639	32	0.781
0.635	33	0.778
0.631	34	0.775
0.627	35	0.772
0.623	36	0.769
0.619	37	0.766

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY YOUNGER	
0.615	38	0.763
0.611	39	0.760
0.607	40	0.757

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY OLDER	
0.966	-20	0.988
0.962	-19	0.986
0.958	-18	0.984
0.954	-17	0.982
0.950	-16	0.980
0.945	-15	0.978
0.938	-14	0.975
0.932	-13	0.972
0.925	-12	0.968
0.918	-11	0.965
0.910	-10	0.961
0.902	-09	0.957
0.894	-08	0.953
0.885	-07	0.949
0.877	-06	0.944
0.864	-05	0.937
0.851	-04	0.928
0.838	-03	0.920
0.820	-02	0.908
0.802	-01	0.895

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY YOUNGER	
0.787	0	0.884
0.773	1	0.876
0.759	2	0.866
0.747	3	0.857
0.737	4	0.851
0.727	5	0.844
0.717	6	0.837
0.708	7	0.831
0.699	8	0.825
0.690	9	0.818
0.681	10	0.812
0.673	11	0.806
0.665	12	0.800
0.657	13	0.795
0.649	14	0.789
0.642	15	0.784
0.635	16	0.778
0.628	17	0.773
0.622	18	0.768
0.615	19	0.763
0.609	20	0.759
0.604	21	0.754
0.598	22	0.749
0.593	23	0.744

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY YOUNGER	
0.588	24	0.739
0.583	25	0.734
0.578	26	0.729
0.574	27	0.724
0.569	28	0.719
0.565	29	0.714
0.561	30	0.709
0.558	31	0.704
0.554	32	0.699
0.551	33	0.694
0.547	34	0.689
0.544	35	0.684
0.541	36	0.679
0.538	37	0.674
0.535	38	0.669
0.533	39	0.664
0.530	40	0.659

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN I - OPTION 0*

AGE	FACTOR
20	.619
21	.621
22	.623
23	.625
24	.627
25	.629
26	.631
27	.633
28	.635
29	.638
30	.640
31	.642
32	.645
33	.648
34	.649
35	.653
36	.656
37	.659
38	.661
39	.664
40	.667
41	.671
42	.674
43	.677
44	.680
45	.684
46	.687
47	.691
48	.694
49	.698
50	.702
51	.706
52	.710
53	.714
54	.718
55	.722
56	.727
57	.731
58	.736
59	.740
60	.745
61	.750
62	.755
63	.759
64	.765

**TEACHERS RETIREMENT SYSTEM
PLAN I - OPTION 0***

AGE	FACTOR
65	.770
66	.775
67	.780
68	.785
69	.791
70	.796
71	.802
72	.808
73	.813
74	.819
75	.825
76	.831
77	.836
78	.842
79	.848
80	.854
81	.860
82	.865
83	.871
84	.877
85	.882
86	.888
87	.893
88	.899
89	.904
90	.909
91	.914
92	.918
93	.923
94	.927
95	.931
96	.935
97	.938
98	.941
99	.945

* For converting from the normal form Option 0 without a COLA, to Option 0 with a COLA.

**TEACHERS RETIREMENT SYSTEM
PLAN I
MONTHLY (No Refund) BENEFIT per \$1.00 of ACCUMULATION
Used to Calculate Annuity Under Option 0, 4 & 1***

20	.0058107
21	.0058209
22	.0058318
23	.0058435
24	.0058560
25	.0058693
26	.0058835
27	.0058986
28	.0059147
29	.0059319
30	.0059502
31	.0059698
32	.0059906
33	.0060129
34	.0060366
35	.0060619
36	.0060889
37	.0061177
38	.0061485
39	.0061814
40	.0062165
41	.0062540
42	.0062941
43	.0063370
44	.0063827
45	.0064314
46	.0064830
47	.0065377

**TEACHERS RETIREMENT SYSTEM
PLAN I
MONTHLY (No Refund) BENEFIT per \$1.00 of ACCUMULATION
Used to Calculate Annuity Under Option 0, 4 & 1***

48	.0065955
49	.0066566
50	.0067212
51	.0067893
52	.0068612
53	.0069370
54	.0070171
55	.0071017
56	.0071210
57	.0072853
58	.0073851
59	.0074908
60	.0076028
61	.0077218
62	.0078485
63	.0079837
64	.0081285
65	.0082841
66	.0084520
67	.0086335
68	.0088302
69	.0090435
70	.0092748
71	.0095257
72	.0097977
73	.0100927
74	.0104126
75	.0107597
76	.0111364
77	.0115456
78	.0119904
79	.0124742
80	.0130007
81	.0135738
82	.0141980
83	.0148781
84	.0156205
85	.0164335
86	.0173278
87	.0183144
88	.0194044
89	.0206072
90	.0219300
91	.0233771
92	.0249513
93	.0266410
94	.0284835
95	.0304470
96	.0325413
97	.0347687
98	.0371380
99	.0396689

Option 1 = .98 x Option 0

TEACHERS RETIREMENT SYSTEM PLAN I		
OPTION 2	AGE DIFFERENCE BENEFICIARY OLDER	OPTION 3
0.976	-20	0.988
0.973	-19	0.986
0.971	-18	0.985
0.968	-17	0.984
0.966	-16	0.982
0.962	-15	0.981
0.960	-14	0.980
0.956	-13	0.977
0.953	-12	0.976

TEACHERS RETIREMENT SYSTEM
PLAN I

TEACHERS RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY OLDER	
0.949	-11	0.974
0.946	-10	0.972
0.942	-09	0.970
0.939	-08	0.968
0.935	-07	0.966
0.931	-06	0.964
0.924	-05	0.960
0.917	-04	0.956
0.909	-03	0.952
0.901	-02	0.948
0.883	-01	0.938

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

0	0	1.0000
	1	.9929
	2	.9857
	3	.9786
	4	.9715
	5	.9643
	6	.9572
	7	.9501
	8	.9429
	9	.9358
	10	.9287
	11	.9215
1	0	.9144
	1	.9080
	2	.9015
	3	.8951
	4	.8886
	5	.8822
	6	.8758
	7	.8693
	8	.8629
	9	.8565
	10	.8500
	11	.8436
2	0	.8372
	1	.8314
	2	.8255
	3	.8197
	4	.8139
	5	.8081
	6	.8023
	7	.7965
	8	.7907
	9	.7848
	10	.7790
	11	.7732
3	0	.7674
	1	.7621
	2	.7569
	3	.7516
	4	.7463
	5	.7411
	6	.7358
	7	.7306
	8	.7253
	9	.7200
	10	.7148
	11	.7095
4	0	.7042
	1	.6995
	2	.6947
	3	.6899
	4	.6851
	5	.6804
	6	.6756
	7	.6708
	8	.6661
	9	.6613
	10	.6565
	11	.6517
5	0	.6470
	1	.6426
	2	.6383
	3	.6340
	4	.6296
	5	.6253
	6	.6210
	7	.6166
	8	.6123
	9	.6080
	10	.6036
	11	.5993

TEACHERS RETIREMENT SYSTEM
PLAN I

OPTION 2	AGE DIFFERENCE	OPTION 3
	BENEFICIARY YOUNGER	
0.872	0	0.932
0.864	1	0.927
0.851	2	0.919
0.843	3	0.914
0.838	4	0.912
0.833	5	0.909
0.823	6	0.902
0.818	7	0.900
0.807	8	0.893
0.802	9	0.890
0.798	10	0.888
0.794	11	0.885
0.789	12	0.883
0.786	13	0.880
0.778	14	0.875
0.774	15	0.873
0.771	16	0.871
0.768	17	0.871
0.764	18	0.869
0.761	19	0.865
0.759	20	0.863
0.756	21	0.861
0.753	22	0.859
0.750	23	0.857
0.747	24	0.855
0.744	25	0.853
0.741	26	0.851
0.738	27	0.849
0.735	28	0.847
0.732	29	0.845
0.729	30	0.843
0.727	31	0.841
0.725	32	0.839
0.723	33	0.837
0.721	34	0.836
0.719	35	0.835
0.717	36	0.834
0.715	37	0.833
0.713	38	0.832
0.711	39	0.831
0.709	40	0.830

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

6	0	.5950
	1	.5910
	2	.5871
	3	.5831
	4	.5792
	5	.5753
	6	.5713
	7	.5674
	8	.5634
	9	.5595
	10	.5555
	11	.5516
7	0	.5477
	1	.5441
	2	.5405
	3	.5369
	4	.5333
	5	.5297
	6	.5261
	7	.5225
	8	.5189
	9	.5153
	10	.5118
	11	.5082
8	0	.5046
	1	.5013
	2	.4980
	3	.4948
	4	.4915
	5	.4882
	6	.4849
	7	.4817
	8	.4784
	9	.4751
	10	.4718
	11	.4686
9	0	.4653
	1	.4623
	2	.4593
	3	.4563
	4	.4533
	5	.4503
	6	.4473
	7	.4443
	8	.4413
	9	.4384
	10	.4354
	11	.4324
10	0	.4294
	1	.4266
	2	.4239
	3	.4212
	4	.4184
	5	.4157
	6	.4130
	7	.4102
	8	.4075
	9	.4048
	10	.4020
	11	.3993
11	0	.3966
	1	.3941
	2	.3916
	3	.3891
	4	.3865
	5	.3840
	6	.3815
	7	.3790
	8	.3765
	9	.3740
	10	.3715
	11	.3690

TEACHERS RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

12	0	.3665
	1	.3642
	2	.3619
	3	.3596
	4	.3573
	5	.3550
	6	.3527
	7	.3504
	8	.3482
	9	.3459
	10	.3436
	11	.3413
13	0	.3390
	1	.3369
	2	.3348
	3	.3327
	4	.3305
	5	.3284
	6	.3263
	7	.3242
	8	.3221
	9	.3200
	10	.3179
	11	.3158
14	0	.3137
	1	.3118
	2	.3098
	3	.3079
	4	.3060
	5	.3040
	6	.3021
	7	.3002
	8	.2982
	9	.2963
	10	.2944
	11	.2924
15	0	.2905
	1	.2887
	2	.2869
	3	.2851
	4	.2834
	5	.2816
	6	.2798
	7	.2780
	8	.2763
	9	.2745
	10	.2727
	11	.2709
16	0	.2691
	1	.2675
	2	.2659
	3	.2642
	4	.2626
	5	.2610
	6	.2593
	7	.2577
	8	.2560
	9	.2544
	10	.2528
	11	.2511
17	0	.2495
	1	.2480
	2	.2465
	3	.2450
	4	.2435
	5	.2420
	6	.2405
	7	.2389
	8	.2374
	9	.2359
	10	.2344
	11	.2329

TEACHERS RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

18	0	.2314
	1	.2300
	2	.2286
	3	.2272
	4	.2258
	5	.2245
	6	.2231
	7	.2217
	8	.2203
	9	.2189
	10	.2175
	11	.2161
19	0	.2147
	1	.2134
	2	.2122
	3	.2109
	4	.2096
	5	.2083
	6	.2070
	7	.2057
	8	.2045
	9	.2032
	10	.2019
	11	.2006
20	0	.1993
	1	.1981
	2	.1970
	3	.1958
	4	.1946
	5	.1934
	6	.1922
	7	.1910
	8	.1899
	9	.1887
	10	.1875
	11	.1863
21	0	.1851
	1	.1840
	2	.1829
	3	.1818
	4	.1807
	5	.1796
	6	.1786
	7	.1775
	8	.1764
	9	.1753
	10	.1742
	11	.1731
22	0	.1720
	1	.1710
	2	.1700
	3	.1689
	4	.1679
	5	.1669
	6	.1659
	7	.1649
	8	.1639
	9	.1629
	10	.1619
	11	.1609
23	0	.1598
	1	.1589
	2	.1580
	3	.1570
	4	.1561
	5	.1552
	6	.1542
	7	.1533
	8	.1523
	9	.1514
	10	.1505
	11	.1495

TEACHERS RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

24	0	.1486
	1	.1477
	2	.1469
	3	.1460
	4	.1451
	5	.1443
	6	.1434
	7	.1425
	8	.1417
	9	.1408
	10	.1399
	11	.1391
25	0	.1382
	1	.1374
	2	.1366
	3	.1358
	4	.1350
	5	.1342
	6	.1334
	7	.1326
	8	.1318
	9	.1310
	10	.1302
	11	.1294
26	0	.1286
	1	.1278
	2	.1271
	3	.1263
	4	.1256
	5	.1248
	6	.1241
	7	.1234
	8	.1226
	9	.1219
	10	.1211
	11	.1204
27	0	.1196
	1	.1189
	2	.1182
	3	.1176
	4	.1169
	5	.1162
	6	.1156
	7	.1148
	8	.1141
	9	.1134
	10	.1127
	11	.1120
28	0	.1113
	1	.1107
	2	.1101
	3	.1094
	4	.1088
	5	.1081
	6	.1075
	7	.1069
	8	.1062
	9	.1056
	10	.1049
	11	.1043
29	0	.1037
	1	.1031
	2	.1025
	3	.1019
	4	.1013
	5	.1007
	6	.1001
	7	.0995
	8	.0989
	9	.0983
	10	.0977
	11	.0971

TEACHERS RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
BENEFICIARY OLDER		
0.910	-20	0.955
0.910	-19	0.955
0.910	-18	0.955
0.910	-17	0.955
0.902	-16	0.950
0.895	-15	0.946
0.886	-14	0.942
0.878	-13	0.937
0.870	-12	0.932
0.861	-11	0.927
0.853	-10	0.922
0.844	-09	0.917
0.836	-08	0.912
0.826	-07	0.907
0.818	-06	0.901
0.806	-05	0.894
0.793	-04	0.886
0.780	-03	0.878
0.764	-02	0.867
0.740	-01	0.852

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
BENEFICIARY YOUNGER		
0.515	38	0.681
0.513	39	0.679
0.511	40	0.678

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0035919
21	.0036089
22	.0036266
23	.0036452
24	.0036647
25	.0036851
26	.0037065
27	.0037288
28	.0037523
29	.0037768
30	.0038026
31	.0038297
32	.0038580
33	.0038878
34	.0039190
35	.0039519
36	.0039863
37	.0040226
38	.0040608
39	.0041009
40	.0041432
41	.0041877
42	.0042346
43	.0042840
44	.0043360
45	.0043907
46	.0044482
47	.0045085
48	.0045717
49	.0046381
50	.0047077
51	.0047808
52	.0048574
53	.0049379
54	.0050223
55	.0051111
56	.0052044
57	.0053025
58	.0054058
59	.0055147
60	.0056296
61	.0057510
62	.0058796
63	.0060161
64	.0061615
65	.0063167
66	.0064828
67	.0066609
68	.0068522
69	.0070578
70	.0072786
71	.0075157
72	.0077703
73	.0080433
74	.0083361
75	.0086497
76	.0089856
77	.0093448

TEACHERS RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
BENEFICIARY YOUNGER		
0.719	0	0.838
0.706	1	0.830
0.694	2	0.821
0.681	3	0.813
0.673	4	0.807
0.665	5	0.801
0.657	6	0.796
0.650	7	0.790
0.643	8	0.785
0.636	9	0.779
0.629	10	0.774
0.622	11	0.769
0.616	12	0.764
0.610	13	0.760
0.600	14	0.752
0.595	15	0.748
0.590	16	0.744
0.585	17	0.740
0.580	18	0.736
0.575	19	0.732
0.570	20	0.728
0.566	21	0.725
0.562	22	0.721
0.558	23	0.718
0.554	24	0.715
0.550	25	0.712
0.547	26	0.709
0.544	27	0.706
0.540	28	0.703
0.537	29	0.701
0.534	30	0.698
0.532	31	0.696
0.529	32	0.693
0.526	33	0.691
0.524	34	0.689
0.521	35	0.687
0.519	36	0.685
0.517	37	0.683

TEACHERS RETIREMENT SYSTEM
PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

78	.0097286
79	.0101380
80	.0105739
81	.0110369
82	.0115273
83	.0120455
84	.0125917
85	.0131654
86	.0137656
87	.0143890
88	.0150299
89	.0156797
90	.0163280
91	.0169635
92	.0175741
93	.0181484
94	.0186825
95	.0191686
96	.0196071
97	.0200007
98	.0203537
99	.0206708

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

0	0	1.0000
	1	.9918
	2	.9836
	3	.9755
	4	.9673
	5	.9591
	6	.9509
	7	.9428
	8	.9346
	9	.9264
	10	.9182
	11	.9100
1	0	.9019
	1	.8946
	2	.8874
	3	.8801
	4	.8728
	5	.8656
	6	.8583
	7	.8511
	8	.8438
	9	.8366
	10	.8293
	11	.8221
2	0	.8148
	1	.8084
	2	.8019
	3	.7955
	4	.7890
	5	.7826
	6	.7761
	7	.7697
	8	.7632
	9	.7568
	10	.7503
	11	.7439
3	0	.7374
	1	.7317
	2	.7259
	3	.7202
	4	.7144
	5	.7087
	6	.7029

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	7	.6971
	8	.6914
	9	.6856
	10	.6799
	11	.6741
4	0	.6684
	1	.6633
	2	.6581
	3	.6530
	4	.6479
	5	.6427
	6	.6376
	7	.6324
	8	.6273
	9	.6222
	10	.6170
	11	.6119
5	0	.6068
	1	.6022
	2	.5976
	3	.5930
	4	.5884
	5	.5838
	6	.5792
	7	.5746
	8	.5700
	9	.5654
	10	.5608
	11	.5562
6	0	.5516
	1	.5474
	2	.5433
	3	.5392
	4	.5351
	5	.5309
	6	.5268
	7	.5227
	8	.5186
	9	.5144
	10	.5103
	11	.5062
7	0	.5021
	1	.4984
	2	.4947
	3	.4909
	4	.4872
	5	.4835
	6	.4798
	7	.4761
	8	.4724
	9	.4687
	10	.4650
	11	.4613
8	0	.4576
	1	.4542
	2	.4509
	3	.4476
	4	.4442
	5	.4409
	6	.4376
	7	.4342
	8	.4309
	9	.4275
	10	.4242
	11	.4209
9	0	.4175
	1	.4145
	2	.4115
	3	.4085
	4	.4055
	5	.4025
	6	.3995

TEACHERS RETIREMENT SYSTEM PLAN II EARLY RETIREMENT FACTORS by Year and Month			TEACHERS RETIREMENT SYSTEM PLAN II EARLY RETIREMENT FACTORS by Year and Month		
	7	.3965		7	.2346
	8	.3934		8	.2329
	9	.3904		9	.2312
	10	.3874		10	.2296
	11	.3844		11	.2279
10	0	.3814	16	0	.2262
	1	.3787		1	.2247
	2	.3760		2	.2232
	3	.3733		3	.2217
	4	.3705		4	.2202
	5	.3678		5	.2186
	6	.3651		6	.2171
	7	.3624		7	.2156
	8	.3597		8	.2141
	9	.3569		9	.2126
	10	.3542		10	.2110
	11	.3515		11	.2095
11	0	.3488	17	0	.2080
	1	.3463		1	.2066
	2	.3439		2	.2052
	3	.3414		3	.2038
	4	.3390		4	.2025
	5	.3365		5	.2011
	6	.3340		6	.1997
	7	.3316		7	.1983
	8	.3291		8	.1969
	9	.3267		9	.1955
	10	.3242		10	.1941
	11	.3217		11	.1928
12	0	.3193	18	0	.1914
	1	.3170		1	.1901
	2	.3148		2	.1888
	3	.3126		3	.1876
	4	.3104		4	.1863
	5	.3081		5	.1851
	6	.3059		6	.1838
	7	.3037		7	.1825
	8	.3015		8	.1813
	9	.2992		9	.1800
	10	.2970		10	.1787
	11	.2948		11	.1775
13	0	.2925	19	0	.1762
	1	.2905		1	.1750
	2	.2885		2	.1739
	3	.2865		3	.1727
	4	.2845		4	.1716
	5	.2824		5	.1704
	6	.2804		6	.1693
	7	.2784		7	.1681
	8	.2764		8	.1670
	9	.2744		9	.1658
	10	.2723		10	.1647
	11	.2703		11	.1635
14	0	.2683	20	0	.1623
	1	.2665		1	.1613
	2	.2646		2	.1602
	3	.2628		3	.1592
	4	.2610		4	.1581
	5	.2591		5	.1571
	6	.2573		6	.1560
	7	.2554		7	.1550
	8	.2536		8	.1539
	9	.2518		9	.1528
	10	.2499		10	.1518
	11	.2481		11	.1507
15	0	.2463	21	0	.1497
	1	.2446		1	.1487
	2	.2429		2	.1477
	3	.2413		3	.1468
	4	.2396		4	.1458
	5	.2379		5	.1448
	6	.2363		6	.1439

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

7	.1429
8	.1419
9	.1410
10	.1400
11	.1390
22 0	.1381
1	.1372
2	.1363
3	.1354
4	.1345
5	.1336
6	.1328
7	.1319
8	.1310
9	.1301
10	.1292
11	.1283
23 0	.1274
1	.1266
2	.1258
3	.1250
4	.1242
5	.1234
6	.1226
7	.1218
8	.1209
9	.1201
10	.1193
11	.1185
24 0	.1177
1	.1170
2	.1162
3	.1155
4	.1147
5	.1140
6	.1132
7	.1125
8	.1117
9	.1110
10	.1102
11	.1095
25 0	.1088
1	.1081
2	.1074
3	.1067
4	.1060
5	.1053
6	.1046
7	.1040
8	.1033
9	.1026
10	.1019
11	.1012
26 0	.1005
1	.0999
2	.0993
3	.0987
4	.0980
5	.0974
6	.0968
7	.0961
8	.0955
9	.0949
10	.0943
11	.0936
27 0	.0930
1	.0924
2	.0918
3	.0913
4	.0907
5	.0901
6	.0895

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

7	.0889
8	.0884
9	.0878
10	.0872
11	.0866
28 0	.0860
1	.0855
2	.0850
3	.0845
4	.0839
5	.0834
6	.0829
7	.0823
8	.0818
9	.0813
10	.0807
11	.0802
29 0	.0797
1	.0792
2	.0787
3	.0782
4	.0777
5	.0772
6	.0767
7	.0762
8	.0757
9	.0752
10	.0748
11	.0743
30 0	.0738
1	.0733
2	.0729
3	.0724
4	.0720
5	.0715
6	.0711
7	.0706
8	.0702
9	.0697
10	.0692
11	.0688
31 0	.0683
1	.0679
2	.0675
3	.0671
4	.0667
5	.0663
6	.0658
7	.0654
8	.0650
9	.0646
10	.0642
11	.0638
32 0	.0633
1	.0630
2	.0626
3	.0622
4	.0618
5	.0614
6	.0610
7	.0606
8	.0603
9	.0599
10	.0595
11	.0591
33 0	.0587
1	.0584
2	.0580
3	.0577
4	.0573
5	.0570
6	.0566

TEACHERS RETIREMENT SYSTEM PLAN II EARLY RETIREMENT FACTORS by Year and Month		TEACHERS RETIREMENT SYSTEM PLAN II EARLY RETIREMENT FACTORS by Year and Month			
	7	.0562	5	.0364	
	8	.0559	6	.0362	
	9	.0555	7	.0360	
	10	.0552	8	.0358	
	11	.0548	9	.0355	
34	0	.0545	10	.0353	
	1	.0541	11	.0351	
	2	.0538	40	0	.0349
	3	.0535	1	.0347	
	4	.0532	2	.0345	
	5	.0528	3	.0343	
	6	.0525	4	.0341	
	7	.0522	5	.0338	
	8	.0518	6	.0336	
	9	.0515	7	.0334	
	10	.0512	8	.0332	
	11	.0509	9	.0330	
35	0	.0505	10	.0328	
	1	.0502	11	.0326	
	2	.0499	41	0	.0324
	3	.0496	1	.0322	
	4	.0493	2	.0320	
	5	.0490	3	.0318	
	6	.0487	4	.0316	
	7	.0484	5	.0315	
	8	.0481	6	.0313	
	9	.0478	7	.0311	
	10	.0475	8	.0309	
	11	.0472	9	.0307	
36	0	.0469	10	.0305	
	1	.0466	11	.0303	
	2	.0463	42	0	.0301
	3	.0460	1	.0299	
	4	.0458	2	.0298	
	5	.0455	3	.0296	
	6	.0452	4	.0294	
	7	.0449	5	.0292	
	8	.0446	6	.0291	
	9	.0444	7	.0289	
	10	.0441	8	.0287	
	11	.0438	9	.0285	
37	0	.0435	10	.0284	
	1	.0433	11	.0282	
	2	.0430	43	0	.0280
	3	.0427	1	.0278	
	4	.0425	2	.0277	
	5	.0422	3	.0275	
	6	.0420	4	.0273	
	7	.0417	5	.0272	
	8	.0415	6	.0270	
	9	.0412	7	.0269	
	10	.0409	8	.0267	
	11	.0407	9	.0265	
38	0	.0404	10	.0264	
	1	.0402	11	.0262	
	2	.0399	44	0	.0260
	3	.0397	1	.0259	
	4	.0395	2	.0257	
	5	.0392	3	.0256	
	6	.0390	4	.0254	
	7	.0387	5	.0253	
	8	.0385	6	.0251	
	9	.0383	7	.0250	
	10	.0380	8	.0248	
	11	.0378	9	.0247	
39	0	.0375	10	.0245	
	1	.0373	11	.0244	
	2	.0371			
	3	.0369			
	4	.0366			

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

0	0	1.0000
	1	.9920
	2	.9841
	3	.9761
	4	.9682
	5	.9602
	6	.9523
	7	.9443
	8	.9364
	9	.9284
	10	.9204
	11	.9125
1	0	.9045
	1	.8974
	2	.8903
	3	.8833
	4	.8762
	5	.8691
	6	.8620
	7	.8549
	8	.8478
	9	.8407
	10	.8336
	11	.8265
2	0	.8194
	1	.8131
	2	.8067
	3	.8004
	4	.7941
	5	.7877
	6	.7814
	7	.7751
	8	.7687
	9	.7624
	10	.7561
	11	.7497
3	0	.7434
	1	.7377
	2	.7320
	3	.7264
	4	.7207
	5	.7150
	6	.7094
	7	.7037
	8	.6980
	9	.6923
	10	.6867
	11	.6810
4	0	.6753
	1	.6702
	2	.6652
	3	.6601
	4	.6550
	5	.6499
	6	.6448
	7	.6397
	8	.6346
	9	.6296
	10	.6245
	11	.6194
5	0	.6143
	1	.6097
	2	.6052
	3	.6006
	4	.5960
	5	.5914
	6	.5869
	7	.5823
	8	.5777
	9	.5732

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	10	.5686
	11	.5640
6	0	.5595
	1	.5554
	2	.5512
	3	.5471
	4	.5430
	5	.5389
	6	.5348
	7	.5307
	8	.5266
	9	.5225
	10	.5184
	11	.5142
7	0	.5101
	1	.5064
	2	.5027
	3	.4990
	4	.4953
	5	.4916
	6	.4879
	7	.4842
	8	.4805
	9	.4768
	10	.4731
	11	.4694
8	0	.4657
	1	.4623
	2	.4590
	3	.4556
	4	.4523
	5	.4489
	6	.4456
	7	.4423
	8	.4389
	9	.4356
	10	.4322
	11	.4289
9	0	.4255
	1	.4225
	2	.4195
	3	.4165
	4	.4134
	5	.4104
	6	.4074
	7	.4044
	8	.4013
	9	.3983
	10	.3953
	11	.3923
10	0	.3892
	1	.3865
	2	.3838
	3	.3810
	4	.3783
	5	.3756
	6	.3728
	7	.3701
	8	.3674
	9	.3646
	10	.3619
	11	.3591
11	0	.3564
	1	.3539
	2	.3514
	3	.3490
	4	.3465
	5	.3440
	6	.3415
	7	.3390

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

8	.3366
9	.3341
10	.3316
11	.3291
12 0	.3266
1	.3244
2	.3221
3	.3199
4	.3176
5	.3154
6	.3131
7	.3109
8	.3086
9	.3064
10	.3041
11	.3019
13 0	.2996
1	.2976
2	.2955
3	.2935
4	.2914
5	.2894
6	.2873
7	.2853
8	.2833
9	.2812
10	.2792
11	.2771
14 0	.2751
1	.2732
2	.2714
3	.2695
4	.2676
5	.2658
6	.2639
7	.2620
8	.2602
9	.2583
10	.2565
11	.2546
15 0	.2527
1	.2510
2	.2494
3	.2477
4	.2460
5	.2443
6	.2426
7	.2409
8	.2392
9	.2375
10	.2358
11	.2341
16 0	.2324
1	.2309
2	.2293
3	.2278
4	.2262
5	.2247
6	.2231
7	.2216
8	.2200
9	.2185
10	.2169
11	.2154
17 0	.2138
1	.2124
2	.2110
3	.2096
4	.2082
5	.2068

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

6	.2054
7	.2040
8	.2026
9	.2012
10	.1997
11	.1983
18 0	.1969
1	.1956
2	.1943
3	.1930
4	.1918
5	.1905
6	.1892
7	.1879
8	.1866
9	.1853
10	.1840
11	.1827
19 0	.1814
1	.1803
2	.1791
3	.1779
4	.1767
5	.1755
6	.1744
7	.1732
8	.1720
9	.1708
10	.1697
11	.1685
20 0	.1673
1	.1662
2	.1651
3	.1641
4	.1630
5	.1619
6	.1608
7	.1597
8	.1587
9	.1576
10	.1565
11	.1554
21 0	.1543
1	.1533
2	.1524
3	.1514
4	.1504
5	.1494
6	.1484
7	.1474
8	.1464
9	.1454
10	.1444
11	.1435
22 0	.1425
1	.1416
2	.1407
3	.1397
4	.1388
5	.1379
6	.1370
7	.1361
8	.1352
9	.1343
10	.1334
11	.1325

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

23	0	.1316
	1	.1307
	2	.1299
	3	.1291
	4	.1282
	5	.1274
	6	.1266
	7	.1257
	8	.1249
	9	.1241
	10	.1233
	11	.1224
24	0	.1216
	1	.1208
	2	.1201
	3	.1193
	4	.1185
	5	.1178
	6	.1170
	7	.1162
	8	.1155
	9	.1147
	10	.1139
	11	.1132
25	0	.1124
	1	.1117
	2	.1110
	3	.1103
	4	.1096
	5	.1089
	6	.1082
	7	.1075
	8	.1068
	9	.1061
	10	.1054
	11	.1047
26	0	.1040
	1	.1033
	2	.1027
	3	.1020
	4	.1014
	5	.1007
	6	.1001
	7	.0994
	8	.0988
	9	.0981
	10	.0975
	11	.0969
27	0	.0962
	1	.0956
	2	.0950
	3	.0944
	4	.0938
	5	.0932
	6	.0926
	7	.0920
	8	.0914
	9	.0908
	10	.0903
	11	.0897
28	0	.0891
	1	.0885
	2	.0880
	3	.0874
	4	.0869
	5	.0863
	6	.0858
	7	.0852
	8	.0847
	9	.0841

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	10	.0836
	11	.0830
29	0	.0825
	1	.0820
	2	.0815
	3	.0810
	4	.0805
	5	.0800
	6	.0795
	7	.0789
	8	.0784
	9	.0779
	10	.0774
	11	.0769
30	0	.0764
	1	.0760
	2	.0755
	3	.0750
	4	.0746
	5	.0741
	6	.0736
	7	.0732
	8	.0727
	9	.0722
	10	.0718
	11	.0713
31	0	.0708
	1	.0704
	2	.0700
	3	.0695
	4	.0691
	5	.0687
	6	.0682
	7	.0678
	8	.0674
	9	.0670
	10	.0665
	11	.0661
32	0	.0657
	1	.0653
	2	.0649
	3	.0645
	4	.0641
	5	.0637
	6	.0633
	7	.0629
	8	.0625
	9	.0621
	10	.0617
	11	.0613
33	0	.0609
	1	.0605
	2	.0602
	3	.0598
	4	.0594
	5	.0591
	6	.0587
	7	.0583
	8	.0580
	9	.0576
	10	.0572
	11	.0569
34	0	.0565
	1	.0562
	2	.0558
	3	.0555
	4	.0551
	5	.0548
	6	.0545
	7	.0541

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM PLAN II		LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM PLAN II OPTION I	
EARLY RETIREMENT FACTORS by Year and Month		20	.0036854
		21	.0037066
		22	.0037288
		23	.0037521
		24	.0037765
		25	.0038020
		26	.0038289
		27	.0038571
		28	.0038866
		29	.0039177
		30	.0039503
		31	.0039846
		32	.0040207
		33	.0040586
		34	.0040985
		35	.0041406
		36	.0041848
		37	.0042315
		38	.0042806
		39	.0043325
		40	.0043871
		41	.0044447
		42	.0045052
		43	.0045687
		44	.0046352
		45	.0047048
		46	.0047775
		47	.0048536
		48	.0049331
		49	.0050162
		50	.0051031
		51	.0051940
		52	.0052893
		53	.0053892
		54	.0054942
		55	.0056047
		56	.0057211
		57	.0058441
		58	.0059741
		59	.0061120
		60	.0062584
		61	.0064141
		62	.0065800
		63	.0067571
		64	.0069461
		65	.0071481
		66	.0073639
		67	.0075944
		68	.0078407
		69	.0081037
		70	.0083844
		71	.0086841
		72	.0090038
		73	.0093446
		74	.0097076
		75	.0100938
		76	.0105040
		77	.0109388
		78	.0113988
		79	.0118848
		80	.0123977
		81	.0129386
		82	.0135092
		83	.0141104
		84	.0147416
		85	.0153996
		86	.0160774
		87	.0167652
		88	.0174514
		89	.0181218
		90	.0187587
		91	.0193543
		92	.0198948
35	0		
	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		
	9		
	10		
	11		
36	0		
	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		
	9		
	10		
	11		
37	0		
	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		
	9		
	10		
	11		
38	0		
	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		
	9		
	10		
	11		
39	0		
	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		
	9		
	10		
	11		

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II OPTION I

93	.0203734
94	.0207882
95	.0211409
96	.0214355
97	.0216775
98	.0218727
99	.0220272

LAW ENFORCEMENT OFFICERS AND
FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
BENEFICIARY OLDER		
0.933	-20	0.967
0.927	-19	0.963
0.920	-18	0.960
0.914	-17	0.956
0.907	-16	0.952
0.900	-15	0.949
0.892	-14	0.944
0.885	-13	0.940
0.877	-12	0.936
0.869	-11	0.931
0.861	-10	0.927
0.853	-09	0.922
0.845	-08	0.917
0.837	-07	0.913
0.829	-06	0.908
0.821	-05	0.903
0.813	-04	0.898
0.805	-03	0.893
0.797	-02	0.888
0.789	-01	0.883

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
BENEFICIARY YOUNGER		
0.781	0	0.878
0.773	1	0.873
0.766	2	0.868
0.758	3	0.863
0.750	4	0.859
0.743	5	0.854
0.736	6	0.849
0.729	7	0.844
0.722	8	0.839
0.715	9	0.835
0.708	10	0.830
0.701	11	0.825
0.695	12	0.821
0.688	13	0.816
0.682	14	0.812
0.676	15	0.808
0.670	16	0.803
0.664	17	0.799
0.658	18	0.795
0.653	19	0.791
0.648	20	0.787

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

OPTION 2	AGE DIFFERENCE	OPTION 3
BENEFICIARY YOUNGER		
0.643	21	0.783
0.638	22	0.780
0.633	23	0.776
0.628	24	0.773
0.624	25	0.769
0.620	26	0.766
0.616	27	0.763
0.612	28	0.760
0.608	29	0.757
0.604	30	0.754
0.601	31	0.751
0.597	32	0.749
0.594	33	0.746
0.591	34	0.744
0.588	35	0.741
0.585	36	0.739
0.582	37	0.737
0.579	38	0.735

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

WSR 88-13-122
PROPOSED RULES
LOTTERY COMMISSION
[Filed June 22, 1988]

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

- Amd WAC 315-06-090 Video machines prohibited.
- Amd WAC 315-10-030 Instant games criteria.
- New WAC 315-11-340 Definitions for Instant Game Number 34 ("Tic-Tac-Toe").
- New WAC 315-11-341 Criteria for Instant Game Number 34.
- New WAC 315-11-342 Ticket validation requirements for Instant Game Number 34.
- New WAC 315-11-350 Definitions for Instant Game Number 35 ("Stocking Stuffer").
- New WAC 315-11-351 Criteria for Instant Game Number 35.
- New WAC 315-11-352 Ticket validation requirements for Instant Game Number 35;

that the agency will at 10:00 a.m., Friday, August 5, 1988, in the West Coast Hotel, 18220 Pacific Highway 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 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 5, 1988.

Dated: June 22, 1988
By: Scott L. Milne
Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-06-090 Video machines prohibited; 315-10-030 Instant games criteria; 315-11-340 Definitions for Instant Game Number 34 ("Tic-Tac-Toe"); 315-11-341 Criteria for Instant Game Number 34; 315-11-342 Ticket validation requirements for Instant Game Number 34; 315-11-350 Definitions for Instant Game Number 35 ("Stocking Stuffer"); 315-11-351 Criteria for Instant Game Number 35; and 315-11-352 Ticket validation requirements for Instant Game Number 35.

Statutory Authority: RCW 67.70.040.

Specific Statute that Rules are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-06-090, allows for sale of on-line games lottery tickets from data processing terminals which take paper currency directly from players and issue tickets; WAC 315-10-030, allows players to claim instant game prize payment for more than \$25 through \$600 from any retailer participating in the computer validation system; WAC 315-11-340, provides definitions of the terms used in Instant Game Number 34 rules; WAC 315-11-341, sets forth criteria for Instant Game Number 34; WAC 315-11-342, states the ticket validation requirements for Instant Game Number 34; WAC 315-11-350, provides definitions of the terms used in Instant Game Number 35 rules; WAC 315-11-351, sets forth criteria for Instant Game Number 35; and WAC 315-11-352, states the ticket validation requirements for Instant Game Number 35.

Reasons Supporting the Proposed Rule(s): WAC 315-06-090, will provide greater convenience to the public in purchasing lottery tickets; WAC 315-10-030, will result in greater convenience to the public and reduce administrative costs associated with lottery validation of claims; WAC 315-11-340, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-341 and 315-11-342; WAC 315-11-341, licensed retailers and players of Instant Game Number 34 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 34 will provide this information; WAC 315-11-342, tickets for Instant Game Number 34 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets; WAC 315-11-350, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-351 and 315-11-352; WAC 315-11-351, licensed retailers and players of Instant Game Number 35 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 35 will provide this information; WAC 315-11-352, tickets for Instant Game Number 35 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage

persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets.

Agency Personnel Responsible for Drafting: Judith Giniger, Contract Specialist 3, Washington State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 586-1088; Implementation and Enforcement: Washington State Lottery Commission, (206) 753-1412, Evelyn Y. Sun, Director, (206) 753-3330, Scott Milne, Deputy Director, (206) 753-3334, Roger Wilson, Assistant Director, (206) 586-1065 and Candice Bluechel, Assistant Director, (206) 753-1947, all located at the Washington State Lottery, P.O. Box 9770, Olympia, Washington 98504.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing this Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding the Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal/state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement Requirements: The Office of the Director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed retailers for the sale of lottery tickets, or contractors who provide other services to the Office of the Director, Washington State Lottery, or who voluntarily interact with the Office of the Director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to, or interact with, the Office of the Director, Washington State Lottery.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-06-090 (~~SL-OF~~) VIDEO MACHINES PROHIBITED. (~~The following coin-operated machines shall not be used in the conduct of games:~~

(1)) Coin-operated, instant video games which pay out prizes, either by skill or chance, shall not be used in the conduct of games(;

and
(2) Coin-operated slot machines which dispense lottery tickets unattended by a lottery retailer.))

AMENDATORY SECTION (Amending Order 81, filed 11/5/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier (~~prizes~~) prizes are of (~~less than \$25.00~~)

\$25.00 or less. Higher tier prizes are of (~~(\$25.00 or more)~~) more than \$25.00. The director shall determine the number of lower and higher tier prizes.

(5) The start date and closing date of the instant game shall be publicly announced. Lottery retailers shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Lottery retailers shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Lottery retailers may continue to sell tickets for each instant game for up to 14 days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and the length of the instant game and to comply with (3) above.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant prizes are as follows:

(a) To claim an instant game prize of (~~(less than \$25.00)~~) \$25.00 or less, the claimant shall present the apparent winning ticket to the lottery retailer from whom the ticket was purchased. The lottery retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the lottery retailer cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the lottery retailer and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant game prize of more than \$25.00 through \$600.00 the claimant either may present the apparent winning ticket to a lottery retailer included in the computer validation system, regardless where the ticket was purchased, or may complete a claim form, as provided in WAC 315-06-120, which is obtained from a lottery retailer or the director and mail the completed form together with the apparent winning ticket to the director. When the retailer is presented with a claim under this section, the retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. The prizes shall be paid during all normal business hours of that retailer provided that claims can be validated on the computer validation system. The retailer shall not charge the claimant any fee for payment of the prize or for cashing a business check drawn on the retailer's account. In the event the retailer cannot verify the claim, the claimant shall present a claim to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

~~((b))~~ (c) To claim an instant prize of (~~(\$25.00)~~) more than \$600.00, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the lottery retailer or the director and mail the completed form together with the apparent winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

~~((c))~~ (d) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request

reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

~~((d))~~ (e) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

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.

NEW SECTION

WAC 315-11-340 DEFINITIONS FOR INSTANT GAME NUMBER 34 ("TIC-TAC-TOE"). (1) Play symbols: The following are the "play symbols": "X" and "O". One of these symbols appears under each of the nine rub-off spots on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which corresponds with and verifies that play symbol. The caption contains five characters. The first character indicates the location of the play symbol in either column one, column two or column three. The second character repeats the play symbol. The last three characters represent the ticket number. One and only one caption appears under each play symbol. For Instant Game Number 34, the captions which correspond with and verify the play symbols are:

PLAY SYMBOLCAPTION (Example for ticket number 122)

X	1X122	(Play symbol in column 1)
O	2O122	(Play symbol in column 2)
X	3X122	(Play symbol in column 3)

(3) Prize symbols: The following are the "prize symbols": "\$1.00", "\$5.00", "\$10.00", "\$50.00", "\$500", and "\$10,000". One of these prize symbols appears under the prize box on the front of the ticket which has the word "PRIZE" printed on the latex covering.

(4) Prize symbol caption - The small printed characters appearing below the prize symbol which verifies and corresponds with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under the prize symbol. For Instant Game Number 34, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 5.00	FIV DOL
\$ 10.00	TEN DOL
\$ 50.00	\$FIFTY\$
\$ 500	FIV HUN
\$ 10,000	10 THOU

(5) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The ten-digit number of the form 3400001-000 printed on the front of the ticket. The first two digits are the game identifier. The first seven digits of the pack-ticket number for Instant Game Number 34 constitute the "pack number" which starts at 3400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 34, the retailer verification codes is a three-

letter code, with each letter appearing in a varying three of six locations beneath the removal covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
FIV	\$ 5.00
TEN	\$10.00

(8) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-341 CRITERIA FOR INSTANT GAME NUMBER 34. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having 3 "X" play symbols or 3 "O" play symbols in any row, column or diagonal beneath the removal covering on the front of the ticket shall win the prize shown in the prize box.

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or payable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 34 set forth in WAC 315-11-342, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

NEW SECTION

WAC 315-11-342 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 34. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 34 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the nine rub-off spots on the front of the ticket.

(b) Each of the nine play symbols must have a caption below and each must agree with its caption.

(c) Exactly one prize symbol must appear under the rub-off material covering the prize box on the front of the ticket.

(d) The prize symbol must have a caption below and it must agree with that caption.

(e) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Positive Archer Font
Captions	Positive 5 x 9 Font
Prize Symbols	Positive Archer Font
Prize Symbol Captions	Positive 5 x 9 Font
Pack-Ticket Number	Positive 9 x 12 Font
Validation Number	Positive 9 x 12 Font
Retailer Verification Code	Positive Archer Font

(f) Each of the play symbols and their captions, prize symbol and its caption, the validation number, pack-ticket number, and the agent verification code must be printed in black ink.

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-340(1); each of the captions must be exactly one of those described in WAC 315-11-340(2), the prize symbol must be exactly one of those described in WAC 315-11-340(3); and the prize symbol caption must be exactly one of those described in WAC 315-11-340(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-350 DEFINITIONS FOR INSTANT GAME NUMBER 35 ("STOCKING STUFFER"). (1) Play symbols: The following are the "play symbols": "\$1.00"; "\$2.00"; "\$5.00"; "\$10.00"; "\$20.00"; "\$50.00"; and "\$500". One of these symbols appears in each

of the six blocks under the scratch-off material covering the game play data.

(2) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 35, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 5.00	FIV DOL
\$ 10.00	TEN DOL
\$ 20.00	TTY DOL
\$ 50.00	\$FIFTYS
\$ 500	FIV HUN

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The ten-digit number of the form 3500001-000 printed on the front of the ticket. The first two digits are the game identifier. The first seven digits of the pack-ticket number for Instant Game Number 35 constitute the "pack number" which starts at 3500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant Game Number 35, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The agent verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FIV	\$ 5.00
TEN	\$10.00
TTY	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-351 CRITERIA FOR INSTANT GAME NUMBER 35. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbol in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three	\$ 1.00	play symbols	-	Win	\$ 1.00
Three	\$ 2.00	play symbols	-	Win	\$ 2.00
Three	\$ 5.00	play symbols	-	Win	\$ 5.00
Three	\$ 10.00	play symbols	-	Win	\$ 10.00
Three	\$ 20.00	play symbols	-	Win	\$ 20.00
Three	\$ 50.00	play symbols	-	Win	\$ 50.00
Three	\$ 500	play symbols	-	Win	\$ 500

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 35 set forth in WAC 315-11-352, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 35 and/or

(b) Vary the number of tickets sold in Instant Game Number 35 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-352 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 35. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 35 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Positive Archer Font
Captions	Positive 5 x 9 Font
Pack-Ticket Number	Positive 9 x 12 Font
Validation Number	Positive 9 x 12 Font
Retailer Verification Code	Positive Archer Font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-350(1) and each of the captions must be exactly one of those described in WAC 315-11-350(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

**WSR 88-13-123
PROPOSED RULES
INSURANCE COMMISSIONER
[Filed June 22, 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 requirements and exceptions with respect to coverage for the formulas necessary for the treatment of phenylketonuria (PKU), to be provided by insurers, health care service contractors and health maintenance organizations, pursuant to chapter 173, Laws of 1988.

Note: The rules, as proposed, may be changed to permit the PKU formula coverage to be subject to deductible, coinsurance, co-payment and preexisting condition provisions. Comments on this issue are solicited;

that the agency will at 9:30 a.m., Wednesday, July 27, 1988, in the John Cherberg Building, Hearing Room #1, State Capitol Campus, 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 July 29, 1988.

The authority under which these rules are proposed is RCW 48.02.060 (3)(a), as to insurers; RCW 48.44.050, as to health care service contractors; and RCW 48.46.200, as to health maintenance organizations.

The specific statute these rules are intended to implement is sections 1 through 4, chapter 173, Laws of 1988.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988. Mailing address: Insurance Building, AQ-21, Olympia, Washington 98504.

Dated: June 20, 1988
By: Robert E. Johnson
Deputy Commissioner

STATEMENT OF PURPOSE

Title: Adding WAC 284-44-450, 284-46-100 and 284-50-260 as permanent rules to establish PKU formula coverage requirements and exceptions.

The statutory authority for the proposed rules is RCW 48.02.060 (3)(a) to effectuate the provisions of sections 1 and 2, chapter 173, Laws of 1988, with respect to individual and group disability insurance contracts; RCW 48.44.050 to effectuate the provisions of section 3, Laws of 1988, with respect to health care service contractor contracts for health care services; and RCW 48.46.200 to effectuate the provisions of section 4, chapter 173, Laws of 1988, with respect to health maintenance organization agreements for health care services.

Chapter 173, Laws of 1988, requires that insurers, health care service contractors and health maintenance organizations provide coverage for the formulas necessary for the treatment of phenylketonuria (PKU) in contracts delivered, issued for delivery or renewed in this state on or after September 1, 1988, subject to requirements and exceptions established by rules adopted by the insurance commissioner. The proposed rules establish such requirements and exceptions.

Proposed WAC 284-44-450 applies to health care service contractor agreements, and specifies the kinds of contracts which need not provide the PKU formula benefit. It also sets out the requirements which must be met in providing the coverage. As proposed, the PKU formula benefit must be an independent benefit unrelated to any other benefit or illness or disease and must provide either payment of the usual and customary rate for such formulas, in full, or supply the appropriate formulas to covered persons without charge.

It is proposed that deductibles, co-payments, coinsurance or other reductions (except for coordination of benefits where more than one contract is applicable to the covered person and application of a lifetime maximum benefit limitation) would not be permitted. The legislature in section 3, chapter 173, Laws of 1988, directed that health care service contracts "shall provide coverage for the formulas necessary for the treatment of phenylketonuria," while in section 4 of that law, which is applicable to health maintenance organizations (HMOs), it added a provision stating specifically that in HMO agreements: "Formulas shall be covered at the usual and customary rates for such formulas, subject to contract provisions with respect to deductible amounts or co-payments." Whether the legislature intended a different result between the categories of licensees is debatable, and apart from that, there could be differences of opinion as to whether the PKU formula benefit should be subject to deductibles, co-payments, coinsurance or a preexisting conditions provision. In the notice of intention to adopt the rules, the issue is raised and comments are solicited. Hence, the rule as the commissioner adopts it may be changed in response to those issues.

Proposed WAC 284-44-450 requires that the charge to a family or individual receiving benefits under the PKU formula coverage shall not, by reason thereof, be any greater than to a family or individual under the same contract form who is not receiving such benefits. It

also would prohibit a contractor from refusing to issue, cancel, or decline to renew any contract, or restrict, exclude, or reduce the amount of benefits payable or type of coverage provided in any contract, because an applicant or covered person has phenylketonuria.

Proposed WAC 284-46-100 applies to health maintenance organizations (HMOs) and includes the requirement mentioned above that persons receiving the PKU formula benefit will not pay more, by reason thereof, than those who are not. It prohibits use of preexisting condition provisions and prohibits using phenylketonuria with respect to issuing, canceling, declining, restricting, excluding or varying a contract or its benefits. It permits certain limited contracts to exclude the PKU formula coverage.

Proposed WAC 284-50-260 applies to insurers and their individual and group disability insurance contracts that insure for hospital or medical expenses. It lists those kinds of contracts as to which the PKU formula benefit does not apply. It requires that the coverage consist of an independent benefit, unrelated to any other benefit or illness or disease. As proposed, it calls for full payment of the usual and customary rate for the PKU formula without the application of any deductible, co-payment or coinsurance reduction provision, except for the application of a coordination of benefits provision and a lifetime maximum benefit limitation which is applicable to all benefits under the contract. As mentioned above, comments relative to deductibles, co-payments and coinsurance and to the prohibition of a preexisting condition provision have been solicited and will be considered at the public hearing on the proposed rules.

Premiums to families or individuals receiving the PKU formula benefit may not be greater, by reason thereof, than the premium to anyone else under the same contract form. An insurer will not be permitted to refuse to issue, cancel, or decline to renew any contract, or restrict, modify, exclude or reduce the amount of benefits payable or type of coverage provided in any contract, because an applicant or insured has phenylketonuria.

With respect to each of the rules, a contract will be considered "renewed" when it is continued beyond the earliest date after September 1988, upon which at the insurer's, contractor's or organization's sole option: The contract's termination could have been effectuated, for other than nonpayment of premium, or the contract could have been amended to add the PKU formula coverage, with, if justified, an appropriate rate increase for any increased cost in providing the PKU formula coverage under the contract. The purpose of that definition or interpretation is to bring the PKU formula coverage under the maximum number of contracts possible at the earliest possible time, by permitting the insurer to exclude such coverage from only those contracts as to which there exists a right of renewal on the part of the insured without any change in any provision of the contract. The failure of the insurer to take any action to change the contract will not prevent the contract from being "renewed."

Robert E. Johnson, Deputy Insurance Commissioner, (206) 753-2406, was responsible for drafting the proposed rules, assisted by Melodie Bankers, (206) 586-

3574, and Scott Jarvis, (206) 753-3110, Deputy Commissioners, and Judy Francis, (206) 753-7381, and Janis LaFlash, (206) 586-2226, Rates and Forms Analysts. Implementation of the rules will initially fall upon the latter two. Enforcement will be the primary responsibility of Ed Southon, (206) 753-7303, Deputy Commissioner, Company Supervision. The address of each is: Insurance Building, AQ-21, Olympia, Washington 98504.

The rules are proposed by Dick Marquardt, the Insurance Commissioner, a state public official.

The proposed rules are not necessary as the result of federal law or federal or state court action.

Small Business Economic Impact Statement: Initially, in complying with the mandate of the legislature to provide the PKU formula benefit, insurers, health care service contractors and health maintenance organizations will have small administrative expenses in modifying contracts and establishing the program. Those that have not been providing such benefit will have a greater expense than those that have been. The relatively few children that have phenylketonuria and will benefit from the law will not cause a significant increase in insurance costs. Employers who provide or contribute to group health insurance programs for their employees could experience a slight premium increase, but realistically it should be virtually immeasurable. From the standpoint of these rules, the cost per employee or per hour of labor for small businesses is estimated to be zero, and the cost per employee or per hour of labor for larger businesses is estimated to be zero.

NEW SECTION

WAC 284-44-450 PKU FORMULA COVERAGE REQUIREMENTS AND EXCEPTIONS. (1) The purpose of this section is to effectuate the provisions of section 3, chapter 173, Laws of 1988, by establishing the requirements and exceptions with respect to coverage for the formulas necessary for the treatment of phenylketonuria (PKU), applicable to health care service contractors registered pursuant to RCW 48.44.015.

(2) Each contract for health care services which is delivered or issued for delivery or renewed in this state on or after September 1, 1988, shall provide coverage for the formulas necessary for the treatment of phenylketonuria, subject to the following exceptions:

(a) A contract that is subject to chapter 48.66 RCW and provides medicare supplemental insurance need not provide the PKU formula coverage;

(b) A contract that is subject to chapter 48.84 RCW and provides long-term care insurance need not provide the PKU formula coverage;

(c) A contract that provides benefits for hospital services only or for custodial services only may limit the coverage for PKU formulas to a benefit that supplies the formula needed, or pays for the formula used, during time such services are provided.

(d) A contract which provides services or reimbursement exclusively for optometric or vision care services, dental or orthodontic services, podiatric services, ambulance services, mental health services, or chiropractic services need not provide coverage for PKU formula.

(e) In response to the written request of a contractor, other contracts may exclude coverage for the PKU formula with the written consent of the commissioner upon a finding that such coverage would be inappropriate.

(3) Coverage for the formulas necessary for the treatment of phenylketonuria must consist of an independent benefit which is unrelated to any other benefit or illness or disease, and must provide either payment of the usual and customary rate for such formulas, in full, or supply the appropriate formulas to covered persons without charge. Deductibles, copayments, coinsurance or other reductions are not permitted, except that coordination of benefits, pursuant to chapter 284-51 WAC, is permissible where PKU benefits are available to a covered

person under two or more contracts. This subsection does not prohibit the use of a life-time maximum benefit limitation which is applicable to all benefits under the contract and which only incidentally applies to the PKU formula benefit.

(4) The amount charged by a health care service contractor shall be no greater to a family or individual receiving benefits under the PKU formula coverage, by reason thereof, than to a family or individual under the same contract form or group contract who is not receiving such benefits.

(5) Preexisting condition provisions shall not be used with respect to PKU formula coverage, and no contractor shall refuse to issue, cancel, or decline to renew any contract, or restrict, modify, exclude, or reduce the amount of benefits payable or type of coverage provided in any contract, because an applicant or covered person has phenylketonuria.

(6) For purposes of section 3, chapter 173, Laws of 1988, and this section, a contract is "renewed" when it is continued beyond the earliest date after September 1, 1988, upon which, at the contractor's sole option:

(a) The contract's termination could have been effectuated, for other than nonpayment of premium; or

(b) The contract could have been amended to add the PKU formula coverage, with, if justified, an appropriate rate increase for any increased cost in providing the PKU formula coverage under the contract.

The failure of the contractor to take any such steps does not prevent the contract from being "renewed." The intent of this subsection is to bring the PKU formula coverage under the maximum number of contracts possible at the earliest possible time, by permitting the contractor to exclude such coverage from only those contracts as to which there exists a right of renewal on the part of a contract holder without any change in any provision of the contract.

NEW SECTION

WAC 284-46-100 PKU FORMULA COVERAGE REQUIREMENTS. (1) The purpose of this section is to effectuate the provisions of section 4, chapter 173, Laws of 1988, by establishing the requirements with respect to coverage for the formulas necessary for the treatment of phenylketonuria (PKU), applicable to health maintenance organizations.

(2) Any agreement for health care services delivered or issued for delivery or renewed in this state on or after September 1, 1988, shall provide coverage for the formulas necessary for the treatment of phenylketonuria, subject to the following exceptions:

(a) A contract that is subject to chapter 48.66 RCW and provides medicare supplemental insurance need not provide the PKU formula coverage;

(b) A contract that is subject to chapter 48.84 RCW and provides long-term care insurance need not provide the PKU formula coverage;

(c) A contract that is governed by 5 U.S.C. chapter 89 or 42 U.S.C. section 1395mm need not provide the PKU formula coverage; and

(d) In response to the written request of a health maintenance organization, other contracts may exclude coverage for the PKU formula with the written consent of the commissioner upon a finding that such coverage would be inappropriate.

(3) The amount charged by a health maintenance organization shall be no greater to a family or individual receiving benefits under the PKU formula coverage, by reason thereof, than to a family or individual under the same agreement form or group agreement who is not receiving such benefits.

(4) Preexisting condition provisions shall not be used with respect to PKU formula coverage, and no contractor shall refuse to issue, cancel, or decline to renew any contract, or restrict, modify, exclude, or reduce the amount of benefits payable or type of coverage provided in any contract, because an applicant or covered person has phenylketonuria.

(5) For purposes of section 4, chapter 173, Laws of 1988, and this section, an agreement is "renewed" when it is continued beyond the earliest date after September 1, 1988, upon which, at the health maintenance organization's sole option:

(a) The agreement's termination could have been effectuated, for other than nonpayment of premium; or

(b) The agreement could have been amended to add the PKU formula coverage, with, if justified, an appropriate rate increase for any increased cost in providing the PKU formula coverage under the contract.

The failure of the organization to take any such steps does not prevent the agreement from being "renewed." The intent of this subsection is to bring the PKU formula coverage under the maximum number of agreements possible at the earliest possible time, by permitting the health maintenance organization to exclude such coverage from only those agreements as to which there exists a right of renewal on the part of an enrollee without any change in any provision of the agreement.

NEW SECTION

WAC 284-50-260 PKU FORMULA COVERAGE REQUIREMENTS AND EXCEPTIONS. (1) The purpose of this section is to effectuate the provisions of sections 1 and 2, chapter 173, Laws of 1988, by establishing the requirements and exceptions with respect to coverage for the formulas necessary for the treatment of phenylketonuria (PKU).

(2) Every group disability insurance contract, which is delivered or issued for delivery or renewed in this state on or after September 1, 1988, that insures for hospital or medical expenses shall provide coverage for the formulas necessary for the treatment of phenylketonuria, with the exception of the following contracts, which need not provide such coverage:

(a) A contract of "blanket disability insurance" as defined in RCW 48.21.040;

(b) A group contract designed to provide benefits on an "accident only" or "specified disease only" basis;

(c) A group contract subject to chapter 48.66 RCW and providing medicare supplemental insurance;

(d) A group contract subject to chapter 48.84 RCW and providing long-term care insurance; and

(e) A group contract as to which the commissioner, in writing, consents to the exclusion of PKU formula coverage, upon a finding that such coverage would be inappropriate to the contract.

(3) Every individual disability insurance contract, including a contract of "family expense disability insurance" as defined in RCW 48.20.340 and a contract on a "franchise plan" as defined in RCW 48.20.350, delivered or issued for delivery or renewed in this state on or after September 1, 1988, that insures for hospital or medical expenses, shall provide coverage for the formulas necessary for the treatment of phenylketonuria, subject to the following exceptions:

(a) A contract providing only hospital confinement indemnity coverage, as such coverage is defined in WAC 284-50-345, need not provide the PKU formula coverage;

(b) A contract limited to providing accident only coverage, as such coverage is defined in WAC 284-50-360, need not provide the PKU formula coverage;

(c) A contract providing only specified disease or specified accident coverage, as such coverage is defined in WAC 284-50-365, need not provide the PKU coverage;

(d) A contract providing limited benefit health insurance coverage, as such coverage is defined in WAC 284-50-370, need not provide the PKU coverage to the extent that the commissioner allows an exception;

(e) A contract providing basic hospital expense coverage, as such coverage is defined in WAC 284-50-335, may limit the coverage for PKU formulas to a benefit that is based on the cost of formula consumed during a covered hospital stay;

(f) A contract that is subject to chapter 48.66 RCW and provides medicare supplemental insurance need not provide the PKU coverage;

(g) A contract that is subject to chapter 48.84 RCW and provides long-term care insurance need not provide the PKU formula coverage; and

(h) A contract as to which the commissioner, in writing, consents to the exclusion of PKU formula coverage, upon a finding that such coverage would be inappropriate to the contract.

(4) Coverage for the formulas necessary for the treatment of phenylketonuria must consist of an independent benefit which is unrelated to any other benefit or illness or disease, and must either provide for the payment of the usual and customary rate for such formulas, in full, or supply the appropriate formula to insureds without charge therefor. Deductibles, copayments, coinsurance or other reductions are not permitted, except that coordination of benefits, pursuant to chapter 284-51 WAC, is permissible where PKU benefits are available to a covered person under two or more contracts. This subsection does not prohibit the use of a lifetime maximum benefit limitation which is applicable to all benefits under the contract and which only incidentally applies to the PKU formula benefit.

(5) Premiums for an insured receiving benefits under the PKU formula coverage shall be no greater, by reason thereof, than the premiums for anyone else who is covered under the same form and who is not receiving such benefits.

(6) Preexisting condition provisions shall not be used with respect to PKU formula coverage, and no insurer shall refuse to issue, cancel, or decline to renew any contract, or restrict, modify, exclude or reduce the amount of benefits payable or type of coverage provided in any contract, because an applicant or insured has phenylketonuria.

(7) For purposes of sections 1 and 2, chapter 173, Laws of 1988, and this section, a contract is "renewed" when it is continued beyond the earliest date, after September 1, 1988, upon which, at the insurer's sole option:

(a) The contract's termination could have been effectuated, for other than nonpayment of premium; or

(b) The contract could have been amended to add the PKU formula coverage, with, if appropriate, an appropriate rate increase for any increased cost in providing the PKU formula coverage under the contract.

The failure of the insurer to take any such steps does not prevent the contract from being "renewed." The intent of this subsection is to bring the PKU formula benefits under the maximum number of contracts possible at the earliest possible time, by permitting the insurer to exclude such coverage from only those contracts as to which there exists a right of renewal on the part of the insured without any change in any provision of the contract.

WSR 88-13-124
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 22, 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 authorization for foster care placement, amending WAC 388-70-013;

that the agency will at 10:00 a.m., Tuesday, July 26, 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 July 27, 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 73.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 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 July 12, 1988. The meeting site is in a location which is barrier free.

Dated: June 22, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This subject is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-70-013.

Purpose of the Rule Change: To increase use of voluntary placements in child foster care and group care under certain circumstances as a means to reduce court activity and to enhance permanency planning. Recent change in Washington state Title IV-E Federal eligibility plan enables the state to do this without loss of federal revenue; and streamline language of the existing rule.

Reason These Rules are Necessary: To prevent loss of federal revenue for voluntary placements.

Statutory Authority: RCW 74.08.090 and 74.13.031.

Summary of the Rule Change: It expands length of voluntary placements for children in foster and group care from 90 days to 180 days.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Dan B. Gadman, Program Manager, Federal Funding Unit, Division of Children and Family Services, mailstop, OB-41 phone 753-0561.

No person or organization outside of DSHS is proposing this rule change.

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

AMENDATORY SECTION (Amending Order 2337, filed 1/29/86)

WAC 388-70-013 AUTHORIZATION FOR FOSTER CARE PLACEMENT. A child may be placed in foster care only under the following circumstances:

(1) The child has been placed in temporary residential care after having been taken into custody pursuant to chapter 13.32A RCW, Runaway Youth Act. A child shall in no event remain in temporary residential care for more than seventy-two hours from the time of initial contact with the law enforcement officer, except as otherwise provided in this section.

(2) A petition, by child, parent or parents, or the department requesting alternative residential placement for the child has been filed pursuant to RCW 13.32A.120 or 13.32A.140, or approved pursuant to RCW 13.32A.170, or upon a child having been admitted directly by RCW 13.32A.090.

(3) A child has been placed in shelter care as provided in the following:

(a) The child has been taken into custody and placed in shelter care when there is probable cause to believe, pursuant to RCW 26.44.050, that the child is abused or neglected and the child would be injured or could not be taken into custody as provided in RCW 13.34.050.

(b) A petition has been filed with the juvenile court alleging the child is dependent; that the child's health, safety, and welfare will be seriously endangered if not taken into custody and the juvenile court enters an order placing the child in shelter care. See RCW 13.34.050 and 13.34.060.

(c) No child shall be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody, unless a court order has been entered for continued shelter care.

(d) No child shall be detained for longer than thirty days without a court order, authorizing continued shelter care.

(4) A juvenile court has determined a child is dependent and the court's order of disposition issued pursuant to RCW 13.34.130 removes the child from his or her home.

(5) A juvenile court has terminated the parent and child relationship pursuant to chapter 13.34 RCW and placed the custody of the child with the department or a licensed child placing agency.

(6) The child and his or her parent or parents agree to the arrangement and/or continuation of alternative residential placement pursuant to RCW 74.13.031, as evidenced by a written consent to placement subject to limitations in subsection (8) of this section.

(7) If a child is to be placed in group care, such placement shall only be made when the department has assessed the child's and family's needs and determined group care is the most appropriate placement option.

(a) The department will only provide financial support for a child's group care placement when the placement is in a licensed group care facility, and

(b) The department has custody of the child and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations.

(8) The child's parent or parents or legal guardian or guardians has voluntarily requested, on forms prescribed by the department, the placement of the child by the department or a licensed child placement agency into foster care and the department concurs such placement is currently necessary(~~(, provided that the maximum time period for the voluntary placement shall be three months. The placement may be extended if an exception to policy is approved per WAC 388-20-010. Such requests shall comply with foster care placement criteria as developed by the department)~~).

(a) By the end of one hundred eighty days, the child shall return to his or her parent or guardian unless the juvenile court has made a judicial determination that return to the parent or guardian is contrary to the welfare of the child, or that continued placement in foster care is in the best interest of the child.

(b) The DCFS regional administrator or area manager may grant exceptions to the one hundred eighty-day limit on voluntary placements subject to the following limitation:

(i) DSHS conducted an administrative review fulfilling the requirements of P.L. 96-272 and the review chairperson recommends continuation of voluntary placement; and

(ii) The exception shall not cause the child to remain in care for greater than eighteen months without a court review hearing which meets the dispositional hearing requirements of P.L. 96-272; and

(iii) The child's return to the home is imminent; or

(iv) The child is seventeen years of age or older.

WSR 88-13-125

ADOPTED RULES

BOARD OF HEALTH

[Order 311—Filed June 22, 1988]

Be it resolved by the Washington State Board of Health, acting at the West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to recreational water contact facilities, new chapter 248-97 WAC.

This action is taken pursuant to Notice No. WSR 88-10-005 filed with the code reviser on April 21, 1988. 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 70.90.120 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 June 8, 1988.

By John A. Beare, M.D., M.P.H.
Secretary

Reviser's note: The material contained in this filing will appear in the 88-14 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

WSR 88-13-126

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security Department intends to adopt, amend, or repeal rules concerning exemption requirements for independent owner-operator truck drivers, new section WAC 192-12-205;

that the agency will at 10:00 a.m., Thursday, July 28, 1988, in the Employment Security Training Facility, Training Room #2, 106 Maple Park, 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 50.12.010 and 50.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Please direct written comments to:

Wm. Eric Jordan
UI Rules Coordinator
Employment Security Department
212 Maple Park
Mailstop KG-11
Olympia, WA 98504

Dated: June 22, 1988

By: Ernest F. LaPalm
Deputy Commissioner

STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

The Employment Security Department is proposing a new section, WAC 192-12-205 Exemption requirements for independent owner-operator truck drivers, to clearly publish agency policy as a rule.

The new section interprets the application of the exception tests of RCW 50.04.140 as they apply to owner-operator truck drivers. The rule identifies whether an owner-operator is considered an independent business or an employee of the firm leasing the truck.

This rule is proposed under the general rule-making authority of the commissioner as established in RCW 50.12.010 and 50.12.040.

These rules were drafted by Tom LePique, Employment Security Program Coordinator, UI Procedures and Methods, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Mr. LePique may be reached by phone at (206) 753-5131.

The rules will be implemented and enforced by Jim Wolfe, Assistant Commissioner for Unemployment Insurance, and Mary Pat Frederick, Chief, UI Tax Administration, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Mr. Wolfe may be reached by phone at (206) 753-5120; Ms. Frederick may be reached at (206) 753-3822.

This rule is not required by any federal law or regulation.

NEW SECTION

WAC 192-12-205 EXEMPTION REQUIREMENTS FOR INDEPENDENT OWNER-OPERATOR TRUCK DRIVERS. Truck driving is reportable employment, unless it can be determined that the owner-operator is independently established in his or her own trucking business and, therefore, considered an owner-operator. An owner-operator (lessor) may lease his or her own truck(s) to a second party (lessee).

For an individual (owner-operator)/(lessor) to be considered independent rather than an employee of the company leasing the truck (lessee), the exception tests found in RCW 50.04.140 must be met. This section provides:

"Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless and until it is shown to the satisfaction of the commissioner that

(1) such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(2) such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(3) such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service."

(1) Exception Test No. 1 can be met if there is no close or continued supervision of the operation of the truck by the company leasing the truck (lessee). This means that the owner-operator (lessor) normally has the right to hire and fire any driver of his or her own truck, set wage amounts, select routes to be driven, and establish or approve procedures for loading and unloading.

(2) Exception Test No. 2 can be met if the company leasing the truck (lessee) is not a trucking company, or the driver's services are performed outside of all places of business of the company leasing the truck (lessee), except for activities relating to the loading or unloading of freight.

(3) Exception Test No. 3 can be met if the individual claiming to be the owner-operator (lessor) is independently established in his/her own trucking business. To be considered independently established, i.e., an owner-operator, that individual must have the ultimate responsibility for the operation of his or her own truck(s) and be responsible for the majority of the cost of items such as:

- (a) Maintenance
- (b) Insurance (Comprehensive, Collision, Liability, etc.) [Lessee may have coverage for trailers]
- (c) Permits, Base Plates, Licenses, and Taxes
- (d) Fuel
- (e) Oil
- (f) Tires
- (g) Major and Minor Repairs
- (h) Ferry Charges and Tolls
- (i) Driver's Remuneration

To be considered responsible for a cost, the owner-operator (lessor) must bear the risk of loss.

Any other related factors not specifically outlined above will also be taken into consideration on a case by case basis.

(4) Once the department determines that an individual is an independent owner-operator (lessor), that individual is considered the employer of his or her own driver(s).

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 88-13-127

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security Department intends to adopt, amend, or repeal rules concerning employer request for benefit charge relief, amending WAC 192-12-019;

that the agency will at 9:00 a.m., Thursday, July 28, 1988, in the Employment Security Training Facility, Training Room #2, 106 Maple Park, 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 50.12.010 and 50.12.040.

The specific statute these rules are intended to implement is RCW 50.29.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 27, 1988.

Please direct written comments to:

Wm. Eric Jordan
UI Rules Coordinator
Employment Security Department
212 Maple Park
Mailstop KG-11
Olympia, WA 98504

Dated: June 22, 1988
By: Ernest F. LaPalm
Deputy Commissioner

STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

The Employment Security Department is amending WAC 192-12-019 Employer request for benefit charge relief, to include changes made by the legislature in chapter 27, Laws of 1988.

The new language adds noncharging for catastrophic plant loss as authorized by the legislature and clearly defines the effective date of the act.

This rule is proposed under the general rule-making authority of the commissioner as established in RCW 50.12.010 and 50.12.040.

These rules were drafted by Tom LePique, Employment Security Program Coordinator, UI Procedures and Methods, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Mr. LePique may be reached by phone at (206) 753-5131.

The rules will be implemented and enforced by Jim Wolfe, Assistant Commissioner for Unemployment Insurance, and Mary Pat Frederick, Chief, UI Tax Administration, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Mr. Wolfe may be reached by phone at (206) 753-5120; Ms. Frederick may be reached at (206) 753-3822.

This rule is not required by any federal law or regulation.

AMENDATORY SECTION (Amending Order 5-85, filed 10/10/85)

WAC 192-12-019 EMPLOYER REQUEST FOR BENEFIT CHARGE RELIEF. RCW 50.29.020(2) provides, in part, that a contribution-paying base year employer may request relief of benefit charges which result from payment to an individual who last left his/her employment voluntarily (for reasons not attributable to the employer) or was discharged for misconduct connected with the work~~(:)~~, or when that employer has suffered a catastrophic loss resulting in a closure, or severe curtailment of operations. The employer request must be received within 30 days of the mailing of the notification of the claimant filing an initial claim (the initial "Notice to base year employer" EMS 166).

The commissioner accordingly prescribes:

(1) Reasons not attributable to the employer for voluntarily leaving work shall be personal reasons, not work connected. These reasons may include, but are not limited to:

- (a) Employee illness or disability;
- (b) Illness or death of member(s) of employee's immediate family;
- (c) Employee's leaving to accept work with another employer;
- (d) Incarceration of employee;
- (e) Marital or domestic responsibilities of the employee;
- (f) Employee's pursuit of additional education; or
- (g) Personal dissatisfaction with wages or hours known at time of hire.

(2) Reasons considered to be attributable to the employer are those work related factors of such a compelling nature as to cause a reasonably prudent person to leave his or her employment. Such work related factors may include, but are not limited to:

- (a) Substantial involuntary deterioration of the work factors;
- (b) Work location (distance and difficulty of travel);
- (c) Safety of work site, equipment/machine safety;
- (d) Employee skills no longer required for job performance; or
- (e) Such other work related factors as the commissioner may deem pertinent.

(3) Effective June 8, 1988, requests for relief of charging will be considered for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster causing closure or severe curtailment of operations at the employer's plant, building, work site, or other facility. Benefits paid as an indirect result of a catastrophic loss are not included in this provision.

~~((3))~~ (4) The employer requests for benefit charging relief must be in writing and must be received or postmarked within 30 days of mailing of the notification of the initial determination (the initial "Notice to base year employer" EMS 166), except for good cause shown. Benefit charging relief is only available with respect to notices of initial determination (the initial "Notice to base year employer" EMS 166) mailed July 1, 1985, or later~~(:)~~; except requests for relief of charging that are effective for weeks of unemployment insurance benefits beginning on or after June 5, 1988, that result from catastrophic occurrences

Any employer added to a monetary determination as a result of a redetermination of an initial claim, filed on July 1, 1985, or later, will be eligible for consideration of noncharging relief.

Any employer added to a monetary determination as the result of a redetermination of an initial claim filed prior to July 1, 1985, will be eligible for consideration of relief of charging if the notification of the initial determination ("Notice to base year employer" EMS 166) was mailed July 1, 1985, or later.

~~((4))~~ (5) Timeliness. If, upon receipt of the employer's written request, the department requires additional information, the employer shall provide the requested information within 10 working days from the date of mailing of the request by the department. Failure to respond within 10 working days will result in a denial of benefit charging relief for the employer unless good cause for the untimely response is shown.

~~((5))~~ (6) Burden of proof. It shall be the responsibility of the employer to provide all pertinent facts to the satisfaction of the department to allow a determination of noncharging relief or good cause for failure to respond in a timely manner.

~~((6))~~ (7) Any denial of a request for noncharging relief shall be in writing and will be the basis of appeal pursuant to RCW 50.32.050.

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 88-13-128

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 22, 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 amendment to WAC 296-81-007(3) proposes to delete ANSI/ASME A17.1, Rule 211.3b and replace it with WAC 296-81-275. WAC 296-81-007(4) adopts the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1, 1987 edition;

that the agency will at 10:00 a.m., Tuesday, August 2, 1988, in the Conference Room, Bellevue Service Location, 300 N.E. 120th, Building 4, #124, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 15, 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 August 2, 1988.

Dated: July [June] 22, 1988

By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 296-81 WAC, Safety rules governing existing elevators, dumbwaiters, escalators and other lifting devices—Moving walks. Amending WAC 296-81-007 National Elevator Code adopted and new WAC 296-81-275 Smoke detectors.

Statutory Authority: RCW 70.87.030.

Specific Statute that Rule is Intended to Implement: RCW 70.87.080, [70.87.]090 and [70.87.]100.

Summary of the Rule: The amendment to WAC 296-81-007(3) will delete ANSI/ASME A17.1, Rule 211.3b and replace it with a new WAC 296-81-275. WAC 296-81-007(4) will adopt the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1, 1987 edition.

Reasons Supporting the Proposed Rule(s): WAC 296-81-275 will create uniformity throughout the state, as many municipalities have written ordinances that are in conflict with ANSI/ASME Rule 211.3b. The new code will give fire marshals and municipalities the ability to determine what fire alarms can recall elevators within their jurisdictions. The American National Safety Code, 1987 edition, is being adopted to stay in conformity with the national safety standards.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rule: William T. O'Hara, Chief Elevator Inspector, Division of Building and Construction Safety Inspection Services, 19435 West Valley Highway, Building S, Suite 108, Kent, WA 98032, phone (206) 872-6340.

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 for this statement.

AMENDATORY SECTION (Amending Order 87-21, filed 11/6/87)

WAC 296-81-007 NATIONAL ELEVATOR CODE ADOPTED. (1) The American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, American National Standards Institute A17.1, as amended or revised through 1971, is adopted as the standards in this state for elevators, dumbwaiters, escalators, and moving walks installed from February 25, 1972, through June 30, 1982.

(2) The American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1, 1981 edition, is adopted as the standard for elevators, dumbwaiters, escalators, and moving walks installed on or after July 1, 1982 through January 9, 1986.

(3) The American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1, 1984 edition is adopted as the standard for elevators, dumbwaiters, escalators, and moving walks installed on or after January 10, 1986, with the exception of ANSI A17.1, part XIX. For all elevators, dumbwaiters, escalators, and moving walks installed on or after November 1, 1988, the requirements of ANSI A17.1, 1984 edition apply, with the exception of ANSI A17.1, part XIX and ANSI A17.1, part II, Rule 211.3b, which is replaced by WAC 296-81-275.

(4) The American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1, 1987 edition is adopted as the standard for elevators, dumbwaiters, escalators, and moving walks installed on or after January 1, 1989, with the exception of ANSI A17.1, part XIX, and ANSI A17.1, part II, Rule 211.3b, which is replaced by WAC 296-81-275.

NEW SECTION

WAC 296-81-275 SMOKE DETECTORS. Phase I recall shall be activated from, but not limited to, alarm devices in the hoistway, control room, and adjacent lobbies. Devices for deactivating recall shall be secure from tampering and shall be accessible to fire, inspection, and elevator service personnel only. Owner-designated patient express and emergency hospital service elevators may have a manual control in the car for use by authorized patient care personnel. When activated, it shall preclude Phase I recall.

WSR 88-13-129

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 22, 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 sprinklers in hoistway and machine room, WAC 296-81-276. This rule concerns the requirements for hoistways and machine rooms provided with sprinklers;

that the agency will at 10:00 a.m., Tuesday, August 2, 1988, in the Conference Room, Bellevue Service Location, 300 N.E. 120th, Building 4, #124, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 15, 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 August 2, 1988.

Dated: June 22, 1988

By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 296-81 WAC, Safety rules governing existing elevators, dumbwaiters, escalators and other lifting devices—Moving walks, new section WAC 296-81-276 Requirements for sprinklers in hoistway and machine room.

Statutory Authority: RCW 70.87.030.

Specific Statute that Rule is Intended to Implement: RCW 70.87.080, [70.87.]090 and [70.87.]100.

Summary of the Rule: WAC 296-81-276 will initiate Phase I recall before power to the affected elevator is automatically removed, prior to the application of water by a sprinkler.

Reasons Supporting the Proposed Rule: The new rule will prevent the possibility of trapping passengers in an elevator.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rule: William T. O'Hara, Chief Elevator Inspector, Division of Building and Construction Safety Inspection Services, 19435 West Valley Highway, Building S, Suite 108, Kent, WA 98032, phone (206) 872-6340.

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 for this statement.

NEW SECTION

WAC 296-81-276 SPRINKLERS IN HOISTWAY AND MACHINE ROOM. Elevator hoistway, or machine room provided with

sprinklers shall be provided with Phase I recall, and shall be in compliance with the American National Standards Institute A17.1 Rule 211.3a and WAC 296-81-275.

WSR 88-13-130
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed June 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the state of Washington Department of Licensing intends to adopt, amend, or repeal rules concerning cosmetologists, barbers and manicurists; new sections WAC 308-20-107, 308-20-109 and 308-20-155; amendatory sections WAC 308-20-010, 308-20-020, 308-20-030, 308-20-040, 308-20-050, 308-20-060, 308-20-070, 308-20-080, 308-20-090, 308-20-100, 308-20-105, 308-20-110, 308-20-120, 308-20-130, 308-20-140, 308-20-150, 308-20-171, 308-20-190 and 308-20-205;

that the agency will at 1:00 p.m., Tuesday, July 26, 1988, in the Lacey Driver Licensing Examining Station, 4507 Woodview Drive S.E., Lacey, WA 98503, 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 18.16.030.

The specific statute these rules are intended to implement is RCW 18.16.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 1988.

Dated: June 22, 1988

By: Cynthia J. Jones
 Program Manager

STATEMENT OF PURPOSE

Name of Agency: State of Washington Department of Licensing.

Purpose: The new and amendatory rules are proposed to provide additional safeguards to public health, safety and welfare in the training of cosmetology students, including instructor-trainees.

Statutory Authority: RCW 18.16.030.

Summary of the Rules: WAC 308-20-010 Definitions; 308-20-020 Term of course-examination eligibility; 308-20-030 Curriculum structure; 308-20-040 Application for school license; 308-20-050 Change in ownership of school; 308-20-060 Surety bond requirement for schools; 308-20-070 Training guidelines; 308-20-080 Course outline of training requirements; 308-20-090 Student credit for training; 308-20-100 Recording student hours; 308-20-105 Curriculum for instructor-trainees; 308-20-107 Use and training of instructor-trainees; 308-20-109 Instructor-trainee credit for training; 308-20-110 Minimum school safety standards; 308-20-120 Examination construction and content; 308-20-130 Examination objectives; 308-20-140 Examination—Application; 308-20-150 Student appeal—Examination eligibility denial by the school; 308-20-155

Procedure for applicants requiring special accommodations for licensure examination; 308-20-171 Passing scores on all examinations; 308-20-190 Restricted license; and 308-20-205 License renewal—Penalties.

Reason Proposed: The rules are proposed to provide both substantive changes and additions, and also minor editorial and stylistic changes to the rules, all to enhance the ability of the department to safeguard public health, safety and welfare in the training of cosmetology students, including instructor-trainees.

Changes to WAC 308-20-010, 308-20-030, 308-20-070, 308-20-080, 308-20-100, 308-20-105, 308-20-110, 308-20-120, 308-20-130, 308-20-150 and 308-20-190 are primarily editorial or stylistic changes. Additional reasons for changes and new sections are as follows: WAC 308-20-020 to include exam eligibility for instructor applicants; WAC 308-20-040 to set forth requirements for the school catalog/bulletin; WAC 308-20-050 to expand upon required notification to the department upon change in school ownership; WAC 308-20-060, 308-20-090, 308-20-109 and 308-20-205, to specify circumstances under which students, including instructor-trainees, may receive credit for instruction received; WAC 308-20-105, 308-20-107 and 308-20-109 to specify requirements regarding use and training of instructor-trainees; WAC 308-20-120 to include content of the examination for the cosmetology instructor's license; WAC 308-20-140 and 308-20-150 to expand on exam application procedures; WAC 308-20-155, to provide a procedure for applicants requiring special accommodations for licensure examination; and WAC 308-20-171, to change the required standard from "passing grade" to "passing score."

Responsible Departmental 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: Robert Van Schoorl, Assistant Director, Business and Professions Administration, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-2241 or 234-2241 scan; Cynthia Jones, Program Manager, Business and Professions Administration, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-1966 or 234-1966 scan; and Judy Wood, Assistant Program Manager, Business and Professions Administration, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-1966 or 234-1966 scan.

Proponents: The State of Washington Department of Licensing.

Federal Law or Federal or State Court Requirements: The proposed new and amendatory sections are not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: A small business economic impact statement is not required since these rules do not impact small businesses.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-010 DEFINITIONS. (1) Achievement indicators—Form(s)—Form designed and used by the school to record achievement rating of student learning objectives.

(2) (~~Basic—Beginning, essential understanding.~~)

~~((3))~~ Chemical compounds formulated for professional use only—Compounds containing hazardous chemicals in a form not generally sold to the public; such as, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances or corrosive materials.

~~((4))~~ ~~Concept—Understanding an idea.~~

~~((5))~~ ~~(3) Curriculum—Detailed course of study.~~

~~((6))~~ ~~(4) Student learning objectives—Measurable outcomes expected to occur as the result of instruction.~~

~~((7))~~ ~~(5) Instructional objectives—Measurable evaluation of the attainment of the student learning objectives.~~

~~((8))~~ ~~(6) Terminal learning objectives—Final outcomes expected to occur at the completion of a course of study as a result of instruction.~~

~~((9))~~ ~~Special student—Optional method for public high school students to enroll in cosmetology school. Students electing to enroll as special students must complete high school or GED equivalency.~~

~~(10)~~ ~~Commercial practice or business—Services performed for sale or profit. One's work, occupation or profession.~~

~~(11)~~ ~~Task—A step or procedure within a job.~~

~~(12)~~ ~~Job—A complete service, i.e., haircut, machine facial, permanent wave, etc.)~~

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-020 TERM OF COURSE—EXAMINATION ELIGIBILITY. ~~((The department))~~ A school shall not require students to remain in school after the completion of any course of instruction.

Any individual, seventeen years of age or older, having completed 500 hours of manicurist training approved by the director may apply for examination to be licensed as a manicurist.

Any individual, seventeen years of age or older, having completed 800 hours of barber training as approved by the director may apply for examination to be licensed as a barber.

Any individual, seventeen years of age or older, having completed 1600 hours of cosmetology training as approved by the director may apply for examination to be licensed as a cosmetologist. ~~((Course with))~~ Cosmetology training consists of a 500 hour manicurist course, the 800 hour barber course and an additional 300 hours of training in the performance of all chemical services as approved by the director.

Any person who has the same qualifications as a cosmetologist and who has completed at least 500 hours of instruction in cosmetology teaching techniques and lesson planning in a school may apply for examination to be licensed as a cosmetology instructor.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-030 CURRICULUM STRUCTURE. Each curriculum shall be designed to prepare students for at least beginning employment/job entry ~~((and to pass the licensing examination))~~.

Each curriculum shall include clearly defined, tangible instructional objectives and student learning objectives to meet the training needs ~~((of the student within the corresponding time frame))~~ for each curriculum offered by the school.

~~((Each curriculum shall include terminal objectives with achievement indicators that measure achievement of all student learning objectives.))~~

AMENDATORY SECTION (Amending Order PM 681, filed 10/9/87)

WAC 308-20-040 APPLICATION FOR SCHOOL LICENSE. With each school application, the following items must be included before a school license will be approved by the department:

(1) ~~((Owners—))~~ Names and addresses of all school owners ~~((must be on the application for a school license));~~

(2) ~~((List))~~ Names and addresses of all school operators or managers;

(3) Names and addresses of all instructors ~~((with their addresses))~~ responsible for the training of students. The department must be notified, in writing, when a change of instructor staff occurs;

~~((3))~~ (4) A copy of the curriculum for each course the school intends to offer. A cosmetology school must submit a curriculum for manicurist, barber and chemical services; a barber school must submit

a barber curriculum; a manicurist school must submit ~~((s))~~ a manicurist curriculum. Any school offering cosmetology instructor training must submit a curriculum in cosmetology teaching techniques and lesson planning. Each curriculum must meet the training guidelines established by the director and adopted by rules pursuant to this chapter. A copy of the instructional objectives, student learning objectives, terminal learning objectives and achievement indicator form for each curriculum must be submitted with the application. The achievement indicator form must include the school name and address preprinted on the form;

~~((4))~~ (5) Each school will submit, at the time of application, a ~~((copy of their))~~ catalog, ~~((brochure and contract they intend to use for the enrollment of students. Each catalog, brochure and enrollment contract will contain in clear, concise language, the cancellation and refund policy of the school;~~

(5) ~~The))~~ bulletin or other printed material which contains accurate and current information regarding the operation and requirements of the school. Supplements to the catalog/bulletin are to be fastened to the publication and, if such information supersedes any information contained elsewhere in the catalog/bulletin, it must be clearly indicated on the supplement. The catalog/bulletin is to be made available to all students prior to enrollment and must include, but not be limited to, the following information:

(a) Names of all owners, operators, and/or managers.

(b) Names and qualifications of all instructors.

(c) Beginning and ending dates of training, including hours of operation, and observed holidays.

(d) Placement assistance, if any.

(e) Policy outlining acceptable conduct of students including grounds for dismissal and readmission.

(f) School policy on absences, leave, tardiness, and make-up work.

(g) School policy and regulations regarding student progress including expected rate of progress, minimum acceptable grades, penalties for unsatisfactory progress, and the rights of students to appeal.

(h) Total cost to students including registration fee, books, supplies, equipment, tuition, lab fees, or any other associated cost for which the student is liable.

(i) A description of each course to include total hours, the course objectives and the method of instruction. (E.g., classroom lab, etc.,) and any certificate or credentials awarded upon completion.

(j) Cancellation and refund policies.

(6) Each school shall submit a copy of the enrollment contract or agreement. The contract/agreement must include at least the following:

(a) The school's cancellation and refund policy;

(b) Adequate information to clearly define the terms of the agreement between the student and the school, including but not limited to:

(i) The name and address of the school and student.

(ii) The date training is to begin, and the number of hours of instruction.

(iii) An itemized list of all costs incurred by the student to complete the training. Such costs shall include tuition and registration fees, books, supplies, and equipment and all other charges made by the school. Methods of payment or payment schedule must be clearly stated.

(c) A statement acknowledging receipt of the copy of the school's catalog/brochure and enrollment agreement by the student;

(d) The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution.

(7) A description of the school facilities and equipment ~~((can)).~~ This may be submitted by facility architect's blue print with equipment penciled in or by accurate hand drawn diagram including equipment to be used for training of students;

~~((6))~~ (8) A surety bond as established by WAC 308-20-060 shall be submitted with the application for school licensure. No school shall be approved until the surety bond is in force.

The department shall be notified within fifteen days of any changes in subsections (1) through ~~((6))~~ (8) of this section.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-050 CHANGE IN OWNERSHIP OF SCHOOL. If a change involving twenty-five or more percent of school ownership occurs, a new license application must be submitted with proof of ownership, or percentage of ownership, by the new owners. A new application must then be submitted to the department within fifteen days

of change of ownership. Such notification is to include any changes made in curriculum, management personnel, instructional staff, tuition or registration fee, catalog, brochure, contract or surety bond.

AMENDATORY SECTION (Amending Order PM 681, filed 10/9/87)

WAC 308-20-060 SURETY BOND REQUIREMENT FOR SCHOOLS. Every currently licensed school and every applicant for a new or renewed school license is required to have a surety bond which meets legal requirements. Surety bonds shall be made to the state of Washington and be kept on file at the department of licensing.

(1) The amount of the bond shall be one thousand dollars or five percent of the annual gross tuition collected by the school, whichever is greater. The bond shall not exceed twenty-five thousand dollars and shall run to the state of Washington for the protection of unearned prepaid student tuition.

(2) At the time of licensing each school shall file a surety bond with the director of licensing, hereinafter referred to as the director, in a form acceptable to the department. The bond may be continuous or renewable at the time of renewal of license: **PROVIDED**, That the bond shall cover the full period during which a school is licensed unless the surety has been released as provided in subsection (4) of this section.

(3) The bond shall be executed by the licensed school as principal and by a surety company authorized to do business in this state as surety. The bond shall run to the state of Washington, for protection of unearned prepaid student tuition.

(4) A surety on a bond may be released by serving written notice thereof to the director at least thirty-five days prior to the release, but the release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee, or, in the case of a minor, his or her parents or guardian.

The director shall give the school at least thirty days' written notice prior to the release of the surety to the effect that upon release of the surety the school license will be null and void by operation of RCW 19.72.130 until a new and sufficient surety bond is filed in the same manner and amount as the bond being terminated. Students shall not receive credit for instruction received during any time a school bond is not in effect.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-070 TRAINING GUIDELINES. A numerical rating scale ~~((to)) shall be used ((when evaluating student progress)) to evaluate and ((recording)) record student progress on the achievement indicator form.~~

~~((Rating scale: Numerical scale to be used to rate)) The student's competency in ((attainment-of)) attaining learning objectives ((will)) is to be ((used)) rated on a scale of "1-4" as follows:~~

4. Job ready—Can completely perform the job safely and independently.
3. Moderately competent—Can perform job completely and safely with limited supervision.
2. Limited competency—Requires instruction and close supervision in order to perform a task safely.
1. No exposure—No experience or knowledge in this area.

Schools will design instructional objectives which promote student progress from a beginning "1" rating to completion "4" rating ~~((as the terminal objective))~~ within the specified hours required for each course. Each month the school shall provide each student with a current copy of ~~((their))~~ his/her achievement indicator form.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-080 COURSE OUTLINE OF TRAINING REQUIREMENTS.

COURSE	MINIMUM ACHIEVEMENT REQUIRED BEFORE STUDENTS MAY WORK ON CUSTOMERS IN SCHOOL	((SUGGESTED JOB-READINESS COMPLETION RATING—4))
--------	--	---

Barber services training:

- | | |
|--|---|
| 1. Shampooing | 2 |
| 2. Haircutting or trimming | 2 |
| 3. Arranging, dressing, curling or waving <u>(excluding chemical services)</u> | 2 |
| 4. Sanitation of materials, equipment and tools | 3 |
| 5. Safety | |
| (a) The use of materials, equipment and tools | 3 |
| (b) Recognition of ((a)) diseases or disorders of the skin, scalp or hair | 3 |

Manicurist services training:

- | | |
|--|----------------|
| 1. Application and removal of artificial nails | 2 |
| 2. Sanitation of materials, equipment and tools to provide the service | 3 |
| 3. Safety | |
| (a) In the use of materials, equipment and tools to provide a service | 3 |
| (b) In the recognition of a disease or disorder of the nail or skin | 3 |
| (c) <u>Use of chemicals formulated for professional use only</u> | 3 |
| 4. Skin care involving hot compresses or massage | 2 |
| 5. Skin care involving electrical appliances | 2 |
| 6. Temporary removal of superfluous hair | |
| (a) Mechanical | 2 |
| (b) Chemical | 2 |
| (c) Electrical | 2 |
| ((7-Safety | |
| ((a) Skin analysis for the recognition of disease or disorders | 3 |
| ((b) Use of chemicals formulated for professional use only | 3 |
| ((c) Use of materials, equipment and tools to provide a service | 3 |
| 8. Sanitation of all materials, equipment and tools used to provide a service | 3)) |

Cosmetology chemical services training:

- | | |
|-----------------------------|---|
| 1. Permanent waving | |
| (a) Sectioning and wrapping | 2 |
| (b) Preperm test curl | 2 |
| (c) Solution application | 2 |
| (d) Processing | 2 |
| (e) Neutralizing | 2 |
| 2. Chemical relaxing | |
| (a) Sectioning | 2 |
| (b) Strand test | 2 |
| (c) Relaxer application | 2 |
| (d) Processing | 2 |
| (e) Neutralizing | 2 |

COURSE	MINIMUM ACHIEVEMENT REQUIRED BEFORE STUDENTS MAY WORK ON CUSTOMERS IN SCHOOL	((SUGGESTED JOB READINESS COMPLETION RATING—4))
3. Hair coloring or bleaching		
(a) Predisposition test	2	
(b) Strand test	2	
(c) Measurement and mixing of chemicals	2	
(d) Application of chemicals	2	
(e) Removal of chemicals	2	
4. Safety		
(a) In the storage, mixing and use of chemicals	3	
(b) In the uses of materials, equipment and tools to provide a service	3	
5. Sanitation of all materials, equipment and tools to provide a service	3	

All ratings are to be recorded at least monthly on each student's achievement indicator form. All ratings should reflect job readiness rather than a grade given in class. The suggested job readiness rather than grade given in class. The suggested job readiness completion rating for all procedures is "4."

~~((Ratings will be recorded on each student's achievement indicator:))~~

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-090 STUDENT CREDIT FOR TRAINING. (1) Only those hours of instruction received under the direction of a licensed instructor and on the premises of the licensed school may be credited toward the hourly training requirement.

~~(2) Students shall not receive credit for training received during any period the school license is void, expired, suspended, revoked, or otherwise not currently in effect.~~

(3) Manicurists will be given 500 hours credit and barbers will be given 800 hours credit toward meeting the hourly requirement of 1600 hours in cosmetology. Cosmetology students transferring to a barber or manicurist course shall transfer only the credit that applies to the course for which they are transferring.

~~((2))~~ (4) Students transferring from another state, country or territory will receive credit toward completion of student learning objectives and course requirement hours as follows: (a) Hour for hour credit as applies to each course; (b) student learning objective credit after successfully demonstrating that the objectives have been met. ~~((Each student will receive a copy of the achievement indicators:))~~

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-100 RECORDING STUDENT HOURS. Each school shall record student hours daily and provide to each student monthly accumulated totals of all hours obtained for each course offered ~~((to each student))~~. Cosmetology students will have hours recorded in manicuring, barbering and chemical services as the training takes place. Up to date monthly accumulated hourly totals shall be recorded ~~((on each student's objective achievement indicator record. The student learning objectives shall be recorded on student's objective indicator record))~~ as they are achieved~~((:))~~; The original report will be kept on file at the school and a copy provided to the student each month.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-105 CURRICULUM FOR ~~((CADET))~~ INSTRUCTOR~~((S))~~-TRAINEES. Licensed schools wishing to offer training for cosmetology instructors are required to develop and maintain an appropriate curriculum. This curriculum should be based on five hundred hours of training and study in the areas shown below:

- (1) Training in instructional methods covering the following subjects or units:
 - (a) Methods of teaching cosmetology:
 - (i) Lesson planning to meet instructional objectives;
 - (ii) Student learning principles for student learning objectives;
 - (iii) Classroom management; and
 - (iv) Four-step method.
 - (b) Occupational analysis and advisory committees:
 - (i) Develop system for analysis;
 - (ii) Charting and categorizing;
 - (iii) Validating; and
 - (iv) Organizing and working with advisory committees.
 - (c) Course organization:
 - (i) Develop instruction from analysis;
 - (ii) Organize and prioritize;
 - (iii) Group and sequence learning units;
 - (iv) Test and evaluate; record progress of students on achievement indicators; and
 - (v) Teaching aids.
 - (d) Student leadership development:
 - (i) How to be effective;
 - (ii) Vocational Industrial Clubs of America or student leadership organization;
 - (iii) Personality and conduct;
 - (iv) Interpersonal relationships; and
 - (v) Customer relations.
 - (e) One of the following topics or units:
 - (i) Testing and rating;
 - (ii) Audio visual materials;
 - (iii) Philosophy of vocational education; or
 - (iv) Techniques in individualized instruction.
 - (2) Training in clinic supervision and management covering the application of teaching techniques as follows:
 - (a) Practical classroom and clinic services:
 - (i) Sanitation of all tools, implements, equipment, and work areas; and
 - (ii) Safety involved in providing any service to members of the public.
 - (b) Safety in the storage, mixing, and use of all chemicals used in a cosmetology, barber, or manicurist school or business.
 - (c) Reception area management:
 - (i) Customer relations;
 - (ii) Use of cash register; and
 - (iii) Telephone techniques~~((and))~~;
 - ~~((iv))~~ (d) Student's practical assignments~~((:))~~;
 - ~~((v))~~ (e) Motivational supervision~~((and))~~;
 - ~~((vi))~~ (f) Student assistance.
- ~~((3) Student cosmetology instructors cannot be used to replace a licensed instructor for the training of students. Student instructors must be under the direct supervision of a licensed instructor at all times:))~~

NEW SECTION

WAC 308-20-107 USE AND TRAINING OF INSTRUCTOR-TRAINEES. (1) Cosmetology instructor-trainees cannot be used to replace a licensed instructor for the training of students. Instructor-trainees must be under the direct supervision of a licensed instructor at all times.

(2) "Direct supervision" means the licensed cosmetology instructor shall:

- (a) Inspect a substantial portion of the instructor-trainee's work;
- (b) Be physically present on the premises where the instructor-trainee is working and be available for consultation with the instructor-trainee a minimum of eighty percent of the time claimed as hours of training received. Provided, that "direct supervision" shall not require that the licensed cosmetology instructor while on the premises inspect all the instructor-trainee's work, nor shall it require that the licensed cosmetology instructor and the instructor-trainee be constantly in the same room.

(3) A school licensed under chapter 18.16 RCW and providing instruction to instructor-trainees must provide the department of licensing at least seven days advance notice, in writing, of the name and address of each person who will receive instruction as a cosmetology instructor-trainee.

(4) No person may be used as, or receive credit for training as, a cosmetology instructor-trainee unless the person holds a current, valid

cosmetology license or is currently eligible for licensure as a cosmetologist and has the same qualifications as a cosmetologist.

(5) No person may be used as, or receive credit for training as, a cosmetology instructor-trainee for more than 600 hours total at any school or schools licensed under chapter 18.16 RCW, unless the school has first requested and received from the department of licensing written approval to use or train a certain instructor-trainee for additional hours.

(6) No cosmetology instructor-trainee may receive any wage or commission.

NEW SECTION

WAC 308-20-109 INSTRUCTOR-TRAINEE CREDIT FOR TRAINING. Each school shall daily record instructor-trainee hours of instruction received in cosmetology teaching techniques and in lesson planning. The school shall provide to each instructor-trainee monthly accumulated totals of hours of instruction the instructor-trainee has received. Only those hours of instruction received under the direct supervision of a licensed instructor and on the premises of the licensed school may be credited toward the instructor-trainee hourly training requirement.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-110 MINIMUM SCHOOL SAFETY STANDARDS. (1) Each licensed school or institution (~~(to whom the license is issued)~~) will be responsible for providing a clean, safe environment for the training of students and provide all students the necessary training to (~~insure~~) ensure that sanitation and safety measures are applied for the maximum protection of the public, students or models used by students or instructors.

(2) An adequate supply of hot and cold running water must be provided for the benefit of the student's and consumer's health, safety and welfare.

(3) Clean towels shall be provided for each customer and shall be laundered after every use.

(4) Robes or gowns used by customers (~~(, when necessary to protect or remove clothing,)~~) must be laundered after every use. Towels, robes and gowns shall not be washed or dried on the premises except in suitable automatic washers and dryers.

(5) (~~(Dispensary, with sink and)~~) A separate area with an adequate supply of hot and cold running water, shall be (~~(a)~~) designated (~~(, separate and appropriate area)~~) as a dispensary for the dispensing of supplies and for the cleaning of tools, equipment and materials.

(6) Wet sanitizer—Fresh, clean solution shall be placed daily in a clean container for the sanitizing of combs, brushes and other tools or implements.

(7) (~~(Storage of)~~) Chemicals must be (~~(done in such a manner which eliminates the possibility of)~~) stored in compliance with state and local laws to ensure maximum protection against fires, fumes, corrosion of containers or contamination (~~(and must comply with state and local laws)~~). Flammable liquids that have a flash point below 100°F and vapor pressure not exceeding 40 lbs per square inch under 100°F must be provided adequate ventilation in storage so that normal leakage of such vapors from containers will be diluted enough to prevent spark from igniting them. Reducing or oxidizing materials must be stored separately from powerful oxidizing agents. Storage areas shall be posted "flammable liquids." Acids must be stored in a cool, well ventilated area void of sources of ignition. (~~(If acids are stored on)~~) Metal shelves (~~(, they)~~) used to store acids must be painted or otherwise rendered immune to attack by acids. Corrosive materials must be kept (~~(cool but well above freezing)~~) in a cool, well ventilated area (~~(to prevent accumulation of fumes)~~). Materials shall be inspected regularly (~~(as corrosive materials often destroy their containers,)~~) and corroded containers must be discarded immediately.

(8) Approved fire extinguishers (~~(approved by local fire department)~~) must be kept in vicinity of storage area.

(9) Adequate toilet facilities (~~(=Every licensed school)~~) shall (~~(provide adequate toilet facilities)~~) be provided for the use of customers, employees and students. The use of common towels and bar soap is prohibited.

(10) Shampoo bowls will be kept clean and free of hair in traps.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-120 EXAMINATION CONSTRUCTION AND CONTENT. Examinations for cosmetologists, barbers and manicurists shall consist of written questions, with multiple choice answers. The examination will determine the applicant's knowledge of safe and sanitary practice. Safe and sanitary practices (~~(may)~~) includes but is not necessarily limited to, the use of tools, machines, materials, processes used to provide a service, or working conditions, which may adversely affect the members of the public or licensees. The examination for a cosmetology instructor's license will cover lesson planning and cosmetology teaching techniques.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-130 EXAMINATION OBJECTIVES. The following objectives will constitute the basis for written examination questions for (~~(each licensing category)~~) the cosmetologist's, barber's, and manicurist's license:

(1) The applicant's knowledge of safety skills in the use of tools, machines, materials and processes in providing any service offered within each course of instruction.

(2) The applicant's knowledge of providing maximum protection, caution and consideration for consumer's eyes, ears, skin, nails, hair and clothing (~~(for the well-being of the consumer)~~) as applies to each course of study.

(3) The applicant's knowledge of all means of sanitation necessary to maintain clean tools, equipment, machines, materials and work areas to prevent contamination and the spread of disease.

(4) The applicant's knowledge of hazards involved in the storage of flammable, volatile or combustible substances, acids and corrosive materials used within the cosmetology, barber or manicurist occupation.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-140 EXAMINATION—APPLICATION. Examinations (~~(will be given)~~) are administered monthly. Examination schedules will be published by the director and issued to each school. Each licensed school shall post the schedule of examinations in plain view for the students and provide students with an application and all necessary information for completing and submitting the application. No school shall prohibit or hinder a student from submitting an application for examination if the student is at least seventeen years of age and has completed the required number of hours in the approved course of study.

Each application submitted (~~(by the student)~~) must (~~(have notarized signatures of both the student and the school owner or manager)~~) include a sworn statement of both the student and the school owner or manager that all statements on the application are true and correct. Each application must be complete in every respect, including fee, before the applicant may be scheduled for examination.

(~~(Att)~~) Applications and fees for examination (~~(or reexamination)~~) must be date stamped received into the department of licensing no later than the first day of the month to be scheduled for the following month's examination. (For example: Must be received by August 1 to be scheduled for September examination.) Only when the date received stamp is omitted or illegible, will the postmark by the postal service be substituted.

Any person (~~(failing to be present for scheduled examination, or requesting)~~) who either (1) fails to appear as scheduled for an examination, or (2) fails to request to be rescheduled at least seven days prior to scheduled examination date shall forfeit fee for examination, except in (~~(emergencies)~~) cases of emergency as determined by the department (~~(, shall forfeit fee for examination)~~).

Applications and fees for reexamination must be received by the professional licensing division at 1300 Quince Street, Olympia, Washington on or before the 20th of the month to be scheduled for the following month's examination.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-150 STUDENT APPEAL—EXAMINATION ELIGIBILITY DENIAL BY THE SCHOOL. Should a school owner or manager refuse to sign the eligibility portion of the student examination application after the student has obtained the required course

hours, the student may appeal ~~((the decision))~~. An appeal must be submitted to the department, in writing, stating specific reasons why ~~((they think they are))~~ the student feels he/she is eligible. ~~((Such))~~ An appeal ~~((to))~~ must be submitted with a completed examination application, accompanied by the required fee and copy of achievement indicator form showing completion of hours and learning objectives.

~~((Schools will be))~~ A school owner or manager is required to respond in writing stating the reason for refusal to sign ~~((supply copies or))~~. The school owner or manager shall provide documentation of events or reasons which substantiate ~~((their))~~ his/her refusal ~~((or reasons why the required training was not provided or obtained within the time required))~~ to sign. A school's failure to respond within twenty days ~~((with))~~ may result in default. More than four appeals from students of any one school in a one-year period may result in review of curriculum and training provided for students by the school.

NEW SECTION

WAC 308-20-155 PROCEDURE FOR APPLICANTS REQUIRING SPECIAL ACCOMMODATIONS FOR LICENSURE EXAMINATION. (1) An applicant for a licensure examination who, due to a specific physical, mental or sensory impairment, requires special accommodation in examination procedures, may submit a written request for the specific accommodation needed.

(a) The applicant must submit an individualized written opinion from a physician or other specialist:

(i) Verifying the existence of a specific physical, mental, or sensory impairment;

(ii) Stating whether special accommodation is needed for a specific licensure examination; and

(iii) Stating what special accommodation is necessary. The applicant must also submit to the department a signed and notarized authorization, authorizing the specifically identified physician or other specialist to discuss the matter with the department of licensing's representative.

(b) The written request for special accommodation and individualized written opinion must be submitted to the department of licensing at least eight weeks in advance of the examination date and must be accompanied by a completed application and the application fee.

(c) Only readers and translators provided by the department may be used for reading/translating the examination.

(d) Applicants who pass the cosmetology examination with the assistance of a reader/translator will be issued a license with the following printed restriction: "Requires Reading Supervision For Product Usage When Performing Chemical Services." If a licensee with a license restriction successfully retakes the chemical services portion of the examination without the assistance of a reader or translator, a new license will be issued without the restriction.

(2) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the examination site prior to the examination. Only dictionaries without definitions will be approved for use.

AMENDATORY SECTION (Amending Order PM 614, filed 12/5/86)

WAC 308-20-171 PASSING ((GRADES)) SCORES ON ALL EXAMINATIONS. Passing ~~((grades))~~ scores are based on the standard of 100 percent and are determined by the cosmetology/barber/manicurist advisory board.

The passing ~~((grade))~~ score on the barber, manicurist, and chemical services examinations is 76 percent. An applicant who receives a passing score of not less than 76 percent shall be entitled to a license.

Applicants for a barber license will be required to obtain a passing ~~((grade))~~ score on the barber examination.

Applicants for a manicurist license will be required to obtain a passing ~~((grade))~~ score on the manicurist examination.

Applicants for a cosmetology license will be required to obtain a passing ~~((grade))~~ score on the barber examination, the manicurist examination and the chemical services examination. No one will be licensed to perform chemical services until successfully passing all three examinations.

If a cosmetology applicant passes the barber examination, a barber license will be issued upon request.

If a cosmetology applicant passes the manicurist examination, a manicurist license will be issued upon request. There will be no refund of fees for separate licenses issued. If both barber and manicurist licenses are requested, an additional fee for a manicurist license will be required.

Applicants for cosmetology instructor license will be required to obtain a ~~((scaled))~~ converted score of eighty on the instructor's examination.

~~((The instructor's examination will cover lesson planning and teaching techniques.))~~

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-190 RESTRICTED LICENSE. Should the director restrict the licensee's scope of practice, the licensee ~~((will be required to))~~ shall surrender ~~((their))~~ the unrestricted license to the department of licensing ~~((whereby))~~ so the stated restriction ~~((with))~~ can be affixed ~~((then))~~ to the license and the license returned to the licensee. All restricted licenses must be posted at the work station of the individual in clear view of the public. ~~((Restricted))~~ Services beyond those authorized by the restricted license may not be performed by the licensee until the restriction is removed from the license.

AMENDATORY SECTION (Amending Order PL 480, filed 9/12/84)

WAC 308-20-205 LICENSE RENEWAL—PENALTIES. (1) Each individual license shall be renewed on or before the birthdate expiration date shown on the license. Failure to renew the license by the expiration date will result in a penalty fee determined by the director. Licenses may be reinstated up to three years by payment of all renewal fees and a penalty fee ~~((s))~~ for the period for which the license had lapsed.

(2) Each school license shall be renewed on or before July 1st as indicated by the expiration date on the license. Failure to renew the school license by the expiration date will result in a penalty fee determined by the director. Students shall not receive credit for instruction received during any period a school license is expired.

WSR 88-13-131
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Dental Examiners)
[Order PM 740—Filed June 22, 1988]

Be it resolved by the Washington State Board of Dental Examiners, acting at the University of Washington, Room D-751, Seattle, Washington 98195, that it does adopt the annexed rules relating to:

Amd	WAC 308-40-101	Application procedure.
Amd	WAC 308-40-102	Examination content.
Amd	WAC 308-40-103	Dismissal from examination.
Amd	WAC 308-40-105	Examination review procedures.
Rep	WAC 308-40-030	Previous rules and regulations repealed.

This action is taken pursuant to Notice No. WSR 88-09-067 filed with the code reviser on April 20, 1988. 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 Board of Dental Examiners as authorized in RCW 18.32.040 and 18.130.050.

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 June 14, 1988.

By Charles V. Farrell, D.M.D.
President

AMENDATORY SECTION (Amending Order PL 391, filed 1/26/82)

WAC 308-40-101 (~~APPLICATION PROCEDURE~~) EXAMINATION ELIGIBILITY AND APPLICATION. (1) To be eligible for the dental examination, the applicant must be a graduate from a dental school approved by the Washington state board of dental examiners. The board of dental examiners adopts those standards of the American Dental Association's Commission on Accreditation which were relevant to accreditation of dental schools and current in January 1981 and has approved all and only those dental schools which were accredited by the commission as of January 1981. Other dental schools which apply for board approval and which meet these adopted standards to the board's satisfaction will be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved by the board.

(2) (~~Applications for the examination may be secured from the Division of Professional Licensing, P.O. Box 9649, Olympia, Washington 98504. The application must be completed in every respect, and reach the division of professional licensing in Olympia at least sixty days prior to the examination.~~) To be eligible for the dental examination the applicant must provide certification of the successful completion of the National Dental Examination Parts I and II.

(3) (~~Applicants who are not citizens or resident aliens in the United States[,] must attain full citizenship or resident alien status within six years from issuance of the license, or the license will be cancelled;~~) Applications for the examination may be secured from the state of Washington department of licensing. The application must be completed in every respect, and reach the state of Washington department of licensing at least sixty days prior to the examination.

(4) The only acceptable proof of graduation from an approved dental school is an official transcript from such school, or a verified list of graduating students from the dean of the dental school. The verified list of students will only be acceptable from applicants who have graduated within (~~45~~) forty-five days of the examination for which they are applying. An applicant may complete his/her other application requirements and be scheduled for the examination before he/she has graduated, but no applicant will be admitted to the examination unless the official transcript or the verified list from the dean has been received by (~~the division of professional licensing of~~) the department of licensing on or before the first day of the examination.

(5) In case of applicant having previously been in practice, the board requires a sworn statement covering history of practice for a five-year period immediately preceding application for this examination. This statement must accompany the application when returning it to the (~~division of professional~~) department of licensing.

(6) Upon establishing examination eligibility, the (~~division of professional~~) department of licensing will mail to each applicant examination forms, instructions and schedule. It is imperative that the applicant bring

this information to the examination as it will be used by the board throughout the practical examination.

AMENDATORY SECTION (Amending Order PM 649, filed 4/22/87)

WAC 308-40-102 EXAMINATION CONTENT. (1) The examination will consist of:

(a) Theory: National board only accepted, except as provided in (1)(c).

(b) Practical/practice:

(i) Restorative examination: The restorative examination shall consist of an amalgam restoration phase, a cast gold restoration phase, and a condensed gold (~~foil~~) restoration phase. Proper radiographs are required for each cavity selection.

Amalgam Class II

Cast gold restoration - Three or more surfaces.

Condensed gold (~~foil~~) - Class II, III or V

(c) The board may, at its discretion, give an examination in any other subject under (a) or (b) of this subsection, whether in written and/or practical form. The applicant will receive information concerning such examination.

(2) Each applicant must furnish his or her own patient for all phases, as may be required, of the practical/practice examination. Patients must be at least eighteen years of age, and shall not be a dentist, dental student, dental hygienist or dental hygiene student. The state board of dental examiners and the school of dentistry assume no responsibility regarding work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance (~~for~~) prior to the first day of the examination.

(3) An assistant will be permitted to assist the applicant at the chair. Dentists or undergraduate dental students, hygienists, undergraduate hygienists are not acceptable as assistants. Assistants must complete a form of eligibility.

AMENDATORY SECTION (Amending Order PL 391, filed 1/26/82)

WAC 308-40-103 DISMISSAL FROM EXAMINATION. Any applicant whose conduct interferes with the evaluation of professional competency by the board may be dismissed from the examination and all work will be rejected. Such conduct shall include but not be limited to the following:

(a) Presentation of purported carious lesions which are artificially created, whether or not the applicant created them.

(b) Presentation of radiographs which have been mislabeled, altered, or contrived to represent other than the patient's true condition, whether or not the misleading radiograph was created by the applicant.

(c) Giving or receiving aid, either directly or indirectly, during the examination process.

(d) Failure to follow directions relative to the conduct of the examination, including termination of treatment procedures.

(e) Gross disregard for and/or mutilation of the hard or soft tissues.

AMENDATORY SECTION (Amending Order PM 649, filed 4/22/87)

WAC 308-40-105 EXAMINATION REVIEW PROCEDURES. (1) Each individual who takes the ((practical)) examination for licensure as a dentist and does not pass the examination will be provided, upon written request, information indicating the areas of the ((practical)) examination in which his or her performance was deficient.

(2) Any unsuccessful applicant, after being advised by the board of the areas of deficiency in the examination, may request review by the board of his or her examination results. This request must be in writing and must be received by the board within thirty days of notification of the examination results. The request must state the reason or reasons why the applicant feels the results of the examination should be changed. The board will consider the following to be adequate reasons for consideration for review and possible modification of examination results:

- (a) A showing of a significant procedural error in the examination process;
- (b) Evidence of bias, prejudice or discrimination in the examination process;
- (c) Other significant errors which result in substantial disadvantage to the applicant.

(3) Any applicant who is not satisfied with the result of the examination review may appeal the board's decision and may request a formal hearing to be held before the board pursuant to the Administrative Procedure Act. Such hearing must be requested within twenty days of receipt of the result of the board's review of the examination results.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-40-030 PREVIOUS RULES AND REGULATIONS REPEALED.

WSR 88-13-132
PROPOSED RULES
HOSPITAL COMMISSION
 [Filed June 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning methodology and criteria for approval, modification, or disapproval of annual budget submittal and rates, rate schedules, other charges and changes therein, WAC 261-40-150;

that the agency will at 1:00 p.m., Thursday, July 28, 1988, in the Seattle Room, West Coast Sea-Tac Hotel, Seattle, 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 70.39.180 and 34.04.020.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 18, 1988.

Dated: June 22, 1988

By: David B. Smith
 Deputy Director

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amending WAC 261-40-150, Methodology and criteria for approval, modification, or disapproval of annual budget submittal and rates, rate schedules, other charges and changes therein, regarding the approval of operating expenses related to malpractice liability expense accruals in hospital rates.

Purpose of the Amendment: To permit hospitals to include malpractice tail liability expense accruals in rates charged to the public under specified conditions.

Statutory Authority: RCW 70.39.180.

Summary of Rule Change and Statement of Reasons Supporting the Proposed Action: WAC 261-40-150 (5)(d) is amended to provide for a hospital to request that the commission approve rates to include a malpractice liability tail expense accrual under certain conditions. Medical malpractice insurance policies have changed from the occurrence basis to the claims-made basis. This results in the accumulation of a liability to hospitals known as the malpractice tail expense liability. The American Institute of Certified Public Accountants recognizes this as an expense in the audited financial statements of the hospitals. The commission is proposing to include this expense in patient rates, with specific conditions placed upon the funds to ensure that they are not diverted from their intended purpose.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of These Rules: Maurice A. Click, Executive Director and David B. Smith, Deputy Director, Washington State Hospital Commission, 711 South Capitol Way, Mailstop FJ-21, Olympia, WA 98504, (206) 753-1990.

The name of the organization proposing the rule amendments is the Washington State Hospital Commission.

These rules are not necessary to comply with a federal law or a federal or a state court decision.

Small Business Economic Impact Statement: The proposed amendments retain provisions for alternative systems of financial reporting and modifications to the uniform reporting system which provide specialized and reduced reporting requirements for small hospitals: WAC 261-20-060, 261-20-074 and 261-50-040. The commission believes that these provisions enable small hospitals to report the information required by the statute in the least onerous fashion. The budget and rate review methodology and criteria in WAC 261-40-150 provide exceptions for hospitals in Peer Group A in order to assure access to necessary health care services in rural areas. Additional reporting requirements specified

within these amendments are necessary to assure purchasers of hospital health care services that hospital costs are necessary for reasonably and prudently managed hospitals, and thus are equally applicable to all hospitals, including those which may qualify as small businesses.

AMENDATORY SECTION (Amending Order 88-02, Resolution No. 88-02, filed 5/13/88)

WAC 261-40-150 METHODOLOGY AND CRITERIA FOR APPROVAL, MODIFICATION, OR DISAPPROVAL OF ANNUAL BUDGET SUBMITTAL AND RATES, RATE SCHEDULES, OTHER CHARGES, AND CHANGES THEREIN. The following methodology and criteria shall be utilized by the commission in reviewing and acting on annual budget submittals. The relative importance of each criterion, and the extent to which justification for variance from the methodology and criteria is accepted, is a matter of commission discretion:

The following is effective for hospital fiscal years beginning in 1987.

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs;

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit the hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(a) Rural includes all areas of the state with the following exceptions:

(i) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(ii) Areas within a twenty-mile radius of an urban area exceeding thirty thousand population; and

(iii) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) Historical admission trends, including a revised current year estimate derived from seasonally-adjusted quarterly report information;

(ii) Historical trends of outpatient volumes as measured by inflation-adjusted outpatient revenue and outpatient equivalents of admissions;

(iii) Historical trends of the average length of stay;

(iv) Historical case mix indices as obtained from the commission hospital abstract reporting system; and

(v) Such other information as the commission may determine is appropriate as a basis for deviating from measures based upon historical trends including, but not limited to:

(A) Revisions necessary to maintain compliance with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Negotiated rate agreements that guarantee additional volumes related to a purchaser of hospital health care services;

(C) The implementation or deletion of services or programs for which certificate of need approval has been obtained, if required; and

(D) Other considerations presented by the hospital or other interested persons and determined to be appropriate by the commission.

(b) The commission shall utilize a principal screen to compare the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted case mix value unit to the hospital's baseline net patient services revenue per adjusted case mix value unit as calculated in item (i) below and modified by item (ii) below:

(i) Each hospital's baseline net patient services revenue per adjusted case mix value unit shall be calculated by applying to the individual hospital the same methodology utilized by the commission in establishing the volume, operating expense, and capital allowance components of the allocated target dollar amount of total state-wide hospital revenue adopted by the commission in accordance with RCW 70.39.150(6).

(ii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit does not exceed the revised baseline, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of subsection (5)(f), (6), and (7) of this section.

(iii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit exceeds the revised baseline, further review of the components of operating expense and capital allowance will be conducted.

(c) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:

(i) Adjusting the requested level of operating expenses to reflect the adjusted case mix value units as determined according to (a) of this subsection, utilizing the variable cost factors described in subsection (6) of this section;

(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification. National inflation forecasts will be modified to reflect regional or state-wide economic conditions, as appropriate;

(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios specified in subsection (6) of this section or inflation forecasts. This information shall include but not be limited to:

(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;

(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;

(D) Volume adjustments of a magnitude which render the standard variable cost factors described in subsection (6) of this section inappropriate; and

(E) Other consideration presented by the hospital and determined to be appropriate by the commission.

(d) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:

(i) Capital allowance includes a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations, an allowance for working capital, and other considerations as determined to be appropriate by the commission.

(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.

(I) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services;

(II) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.

(B) A return on net property, plant and equipment as determined in (I), (II), and (III) below shall be presumed appropriate; however, the commission may vary from that rate, higher or lower, where appropriate.

(I) The rate of return on equity financed net property, plant and equipment shall be calculated by averaging the reported interest rates on twenty-five-year "A" rated tax-exempt bonds as reported in each issue of Rate Controls from the three months ending on August 31 of each year.

(II) The rate of return on debt financed net property, plant and equipment shall be a blended average of each hospital's average interest rate on long-term debt and the rate of return on equity financed net property, plant and equipment. The blending schedule is as follows:

(aa) For hospital fiscal years beginning in 1987: Seventy-five percent - each hospital's average interest rate on long-term debt, twenty-five percent - rate of return on equity financed net property, plant and equipment;

(bb) For hospital fiscal years beginning in 1988: Fifty percent - each hospital's average interest rate on long-term debt, fifty percent - rate of return on equity financed net property, plant and equipment;

(cc) For hospital fiscal years beginning in 1989: Twenty-five percent - each hospital's average interest rate on long-term debt, seventy-five percent - rate of return on equity financed net property, plant and equipment;

(dd) For hospital fiscal years beginning in 1990 and each year thereafter: Zero percent - each hospital's average interest rate on long-term debt, one hundred percent - rate of return on equity financed net property, plant and equipment.

(III) After computation of the return on net property, plant and equipment, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to thirteen and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

(I) The commission may determine that a hospital which is found essential to assure access of the rural public to basic health care services is experiencing financial distress and may determine to vary from the allowance for working capital.

(II) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

(I) Hospitals that have been undercapitalized as determined by an average accounting age of property, plant and equipment which exceeds one hundred fifty percent of the state-wide average; and a total turnover rate of assets which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest Hospital Industry Financial Report of the healthcare financial management association or a fixed asset turnover rate which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest Hospital Industry Financial Report of the healthcare financial management association, provided that:

(aa) The total level of capital allowance for undercapitalized hospitals should not exceed one hundred twenty-five percent of the baseline level; and

(bb) The requested rate per adjusted admission, as revised to reflect the hospital's case mix index, does not exceed the peer group median; and

(cc) The resulting increase in the rate per adjusted case mix value unit does not exceed one hundred twenty-five percent of the baseline median rate of increase.

(II) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

(III) If the hospital has been approved for equity funding or accumulation of funds for a project in the future and its rate per adjusted case mix value unit is at or below the median of its peer group, the proposed project is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body, the proposed project is consistent with the health systems plan of the appropriate health systems agency, and any equity funding allowed in total rate setting revenue is maintained in a separate subaccount within board designated assets and cannot be used for any other purpose without prior approval of the commission; and

(IV) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission.

(e) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as Titles V, XVIII, XIX of the Social Security Act, Department of Labor and Industries, self-insured workers' compensation, Veteran's Administration, and Indian Health Service are allowable as deductions from revenue for rate setting purposes when the hospital payment rates are established unilaterally by the program;

(ii) Contractual adjustments related to bank card discounts, negotiated rates and all other nongovernmental-sponsored patients are not allowable as deductions from revenue for rate setting purposes, except as provided for by WAC 261-40-170(4);

(iii) Contractual adjustments relating to contracts executed with the department of social and health services, under the Medicaid selective contracting program, are allowable as deductions from revenue for rate setting purposes;

(iv) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(v) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification; and

(vi) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

(f) Whether the reviews performed in accordance with (a), (b), (c), (d) and (e) of this subsection result in rates, rate schedules, other charges, and changes therein which are the most reasonable under the circumstances.

(i) Rate setting revenue per adjusted case mix value unit should not exceed the 70th percentile of the peer group revenue screens as adjusted for each hospital's case mix index unless the hospital demonstrates to the commission's satisfaction that the relatively high rates are acceptable.

(ii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria including the relative level of deductions from revenue experienced by the hospitals;

(iii) If the rates are not approved as requested, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order.

(6) Whether the rates implemented and revenues collected by the hospital conform to the applicable commission determinations.

(a) For budget years beginning on or before 1986, conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of either the aggregate rate per adjusted patient day, or the revenues for individual revenue centers, as either may be modified, where appropriate, for volume variance between budgeted and actual levels; such comparison shall be made using actual, rather than budgeted, deductions from revenue.

The approved capital allowance shall be considered a fixed cost when considering year-end conformance. Only that portion of total costs per patient day designated as variable according to the following schedule will be adjusted for volume variance:

Peer groups 1 and 2 and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent.

Peer groups 3 and 4 and specialty hospitals having fifty or more beds; fixed costs - seventy percent, variable costs - thirty percent.

Peer groups 5 and 6 hospitals; fixed costs - sixty percent, variable costs - forty percent.

Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs, either in the aggregate or by revenue center. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable revenue variance due to volume changes.

The hospital may submit any justifying information to explain deviations/variances from approved revenues.

(b) For budget year 1987, conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of the aggregate rate per adjusted case mix value unit. The revenues may be modified, where appropriate, for volume variance between budgeted and actual levels of adjusted case mix value units.

(i) Actual allowable, rather than budgeted, deductions from revenue will be used in the conformance calculation.

(ii) The approved capital allowance shall be considered a fixed cost when considering year-end conformance.

(iii) Only that portion of total operating costs designated as variable according to the following schedule will be adjusted for volume variance:

(A) Peer Group A and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent;

(B) Peer Group B and specialty hospitals having from fifty to one hundred seventy-five beds; fixed costs - sixty-five percent, variable costs - thirty-five percent;

(C) Peer Group C and specialty hospitals having more than one hundred seventy-five beds; fixed costs - fifty percent, variable costs - fifty percent.

(iv) Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs by natural classification of expense. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable operating expense variance due to volume changes.

(v) The hospital may submit any proposed justifying information to explain deviations/variances from approved revenues.

(A) Any proposed justifying information must include at least the following supporting information:

(I) The exact nature and extent of the factors contributing to excess revenue;

(II) The date at which hospital management became aware of the factors contributing to excess revenue;

(III) The date at which hospital management increased rates above the allowable level taking into account volume changes and actual deductions from revenue;

(IV) An explanation of efforts to reduce other components of the budget to offset the factors contributing to the excess revenues; and

(V) An explanation of why the hospital did not seek a budget amendment.

(B) In no event will increased operating expenses be accepted as justification if the volume adjusted allowable operating expenses equal or exceed the actual level.

(C) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been controlled by hospital management.

(D) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been anticipated by the hospital or could have been identified by the hospital in sufficient time to submit a budget amendment in accordance with WAC 261-20-045.

(E) In no event will capital allowance in excess of the approved level be accepted as justification.

(F) Hospitals will be allowed to retain any actual capital allowance in excess of the approved level that results from cost effective practices as defined as, and measured by, actual operating expenses that are below the volume adjusted approved operating expenses.

(vi) Staff shall notify each hospital found to be out of conformance based on this subsection, and a hearing shall be conducted by the commission on conformance within sixty days. If the commission determines that a hospital's revenues have not conformed to the applicable determinations for that year, a decision and order will be issued reducing the hospital's current budget and rates by the amount that actual revenues exceed allowable revenues.

(7) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services;

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

The following is effective for hospital fiscal years beginning on or after January 1, 1988.

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs; and

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit the hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(a) Rural includes all areas of the state with the following exceptions:

(i) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(ii) Areas within a twenty-mile radius of an urban area exceeding thirty thousand population; and

(iii) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

(b) The commission may, at its discretion, determine that individual hospitals located in areas meeting the aforementioned criteria should not be considered rural for purposes of conducting comparative budget reviews between hospitals. In such cases, the affected hospitals will be compared against those hospitals classified as either Peer Group B or Peer Group D for comparative purposes.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) For purposes of conducting comparative budget review, the commission shall assign each hospital to a peer group, as follows:

(i) Peer Group A - those hospitals designated as rural in accordance with WAC 261-40-150 (3)(a);

(ii) Peer Group B - those hospitals not designated within Peer Groups A, C, or D;

(iii) Peer Group C - those hospitals with accredited graduate medical education programs, except those that are classified within Peer Group D; and

(iv) Peer Group D - those hospitals which the commission has determined exhibit unique characteristics that make comparative analysis inappropriate.

(b) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) The adjusted case mix value units for each hospital which were used to develop the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue; and

(ii) Maintaining a reasonable relationship between the volumes of each hospital department with the adjusted case mix value units which were used to develop the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue.

(A) Deviations from the volume levels determined through these procedures will be taken into account in the computation of year-end conformance, as described in WAC 261-40-150(6).

(c) The commission shall utilize a principal screen to compare the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted case mix value unit to the hospital's baseline net patient services revenue per adjusted case mix value unit as calculated in item (i) below and applied by items (ii), (iii), and (iv) below:

(i) Each hospital's baseline net patient services revenue per adjusted case mix value unit shall be calculated as follows:

(A) Baseline adjusted case mix value units shall be equal to the level utilized by the commission in establishing the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue;

(B) Baseline operating expenses shall be equal to the individual hospital's operating expense component of the target dollar amount of total state-wide hospital revenue; and

(C) Baseline capital allowance shall be determined as an allocated amount of the capital allowance component of the target dollar amount of total state-wide hospital revenue. The allocation of the state-wide capital allowance component of the target dollar amount of total state-wide hospital revenue shall be calculated as follows:

(I) Each hospital's 1987 baseline capital allowance will be divided by the sum of all hospitals' 1987 baseline capital allowances; and

(II) The ratio resulting from (I) above shall be multiplied against the 1988 capital allowance component of the target dollar amount of total state-wide hospital revenue.

(ii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit does not exceed the revised baseline, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of subsections (5)(g), (6), and (7) of this section.

(iii) If, after volume adjusting the revised baseline and the budget request to reasonably attainable levels of adjusted case mix value units, the requested net patient services revenue per adjusted case mix value unit exceeds the revised baseline, further review of the components of operating expense and capital allowance will be conducted.

(iv) Peer Group A hospitals with requested net revenues per adjusted case mix value unit which are at or below the 70th percentile for their peer group, and which are increasing from the current year approved level at a percentage change which is at or below the 70th percentile rate of change for the peer group, shall be exempted from the principal screen review and the review of operating expenses and capital allowance, so long as the budgeted adjusted case mix value units appear to be reasonably attainable.

(d) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:

(i) Adjusting the requested level of operating expenses to reflect the adjusted case mix value units as determined according to (5)(b) of this section, utilizing the variable cost factors described in subsection (6) of this section;

(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification. National inflation forecasts will be modified to reflect regional or state-wide economic conditions, as appropriate; and

(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios specified in subsection (6) of this section or inflation forecasts. This information shall include but not be limited to:

(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if requested;

(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;

(D) Volume adjustments of a magnitude which render the standard variable cost factors described in subsection (6) of this section inappropriate; and

(E) Reasonable operating expenses related to malpractice tail liability expense accruals, if requested, under the following conditions:

(I) This expense will be one hundred percent variable with volume in the year-end conformance process;

(II) The expense will be recognized in the year-end conformance calculations at the lesser of the approved or funded level;

(III) This expense will be subject to the statutory requirement that expenses be necessary for prudently and reasonably managed hospitals, including any determinations by the commission that risk sharing among multiple hospitals may result in lower costs to the consumers and purchasers of hospital health care services;

(IV) If requested and approved in rates, this expense must be placed into a legal trust fund, with interest earnings accruing to that fund;

(V) Malpractice claims which are not otherwise covered by malpractice insurance which are in excess of the malpractice tail liability trust fund should be included in rates in the year in which an actual award, resulting from litigation or negotiation, is made to the claimant: PROVIDED, That only that portion of any such awards that exceeds the funds held in trust for this purpose will be included in commission approved total rate setting revenue;

(VI) In the event that a hospital changes insurance carriers, does not obtain insurance in a subsequent year, is sold, or discontinues services as a hospital as defined in RCW 70.39.020(3), the premium for malpractice tail coverage insurance must be paid out of the trust fund: PROVIDED, That such malpractice tail coverage insurance is not otherwise made available to the hospital as a condition of previous or existing malpractice insurance policies;

(VII) Annual requests for malpractice tail liability expense accrual funding must be documented by actuarial estimates of the total of such liabilities and documentation of the amount of such funds held in trust, with the difference between the two amounts equalling the amount that the commission will consider including in rates for that budget period: PROVIDED, That if the commission determines that full funding of the malpractice liability trust fund within any one budget period may result in unreasonable rates or excessive rates of increase in rates, the approval of rates to achieve full funding of the trust may be spread over additional years;

(VIII) Once a hospital has received approval from the commission to increase patient rates to include the malpractice tail liability expense accrual, the hospital must provide an annual report to the commission from a licensed actuary showing the total estimate of such liabilities as of the end of the budget year, and any excesses which may have been expensed and funded in previous years will be deducted from that year's approved total rate setting revenue;

(IX) As a condition of approving the inclusion of malpractice tail liability expense accruals in total rate setting revenue, the commission will require that each hospital for which this expense is approved file financial statements which have been audited by an independent certified public accountant.

(F) Other consideration presented by the hospital or other concerned persons and determined to be appropriate by the commission, including the impact that the acceptance of operating expense increases above the baseline level would have on the commission's ability to achieve total state-wide revenue that are within the target dollar amount of total state-wide hospital revenue as adopted by the commission in accordance with RCW 70.39.150(6), and comparative analysis of the hospital's operating expenses with hospitals within the same peer group.

(e) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:

(i) Capital allowance includes a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations, an allowance for working capital, and other considerations as determined to be appropriate by the commission.

(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.

(I) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services.

(II) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.

(B) A return on net property, plant and equipment as determined in (I), (II), and (III) below shall be presumed appropriate; however, the commission may vary from that return, higher or lower, where appropriate.

(I) The rate of return on equity financed net property, plant and equipment shall be calculated by averaging the reported interest rates on twenty-five year "A" rated tax-exempt bonds as reported in each issue of Rate Controls from the three months ending on August 31, 1987.

(II) The rate of return on debt financed net property, plant and equipment shall be a blended average of each hospital's average interest rate on long-term debt and the rate of return on equity financed net property, plant and equipment. The blending schedule is as follows:

(aa) For hospital fiscal years beginning in 1988: Fifty percent - each hospital's average interest rate on long-term debt, fifty percent - rate of return on equity financed net property, plant and equipment;

(bb) For hospital fiscal years beginning in 1989: Twenty-five percent - each hospital's average interest rate on long-term debt, seventy-five percent - rate of return on equity financed net property, plant and equipment;

(cc) For hospital fiscal years beginning in 1990 and each year thereafter: Zero percent - each hospital's average interest rate on long-term debt, one hundred percent - rate of return on equity financed net property, plant and equipment.

(III) After computation of the return on net property, plant and equipment, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to thirteen and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

(I) The commission may determine that a hospital which is found essential to assure access of the rural public to basic health care services is experiencing financial distress and may determine to vary from the allowance for working capital.

(II) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable. In the event that increased working capital is determined by the commission to be necessary, but the amount of working capital is found by the commission to cause an excessive impact on total revenues or rates, the commission may choose to allow the hospital to borrow the necessary cash and to allow interest on borrowed cash as an operating expense in the budget year.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

(I) Rural hospitals that have been under-capitalized as determined by an average accounting age of property, plant and equipment which exceeds one hundred fifty percent of the state-wide average; and a total turnover rate of assets which exceeds the upper quartile of far west hospitals of the same size category as defined in the latest "Hospital Industry Financial Report" of the healthcare financial management association or a fixed asset turnover rate which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest "Hospital Industry Financial Report" of the healthcare financial management association, provided that:

(aa) The total level of capital allowance for under-capitalized hospitals should not exceed one hundred twenty-five percent of the baseline level; and

(bb) The requested rate per adjusted admission, as revised to reflect the hospital's case mix index, does not exceed the peer group median; and

(cc) The resulting increase in the rate per adjusted case mix value unit does not exceed one hundred twenty-five percent of the budgeted peer group median rate of increase.

(II) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

(III) Whether the capital allowance should include equity funding or accumulation of funds for a project in the future, if the hospital's rate per adjusted case mix value unit is at or below the median of its peer group, the proposed project is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body, and any equity funding allowed in total rate setting revenue is maintained in a separate subaccount within board designated assets and cannot be used for any other purpose without prior approval of the commission;

(IV) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission; and

(V) Other considerations proposed by the hospital or other interested persons and determined to be appropriate by the commission, including the impact that any deviation from the baseline capital allowance will have on the commission's ability to achieve total state-wide hospital revenue that do not exceed the target dollar amount of total state-wide hospital revenue as adopted by the commission in accordance with RCW 70.39.150(6).

(f) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as Titles V, XVIII, XIX of the Social Security Act, Department of Labor and Industries, self-insured workers' compensation, Veteran's Administration, and Indian Health Service are allowable as deductions from revenue for rate setting purposes when the hospital payment rates are established unilaterally by the program.

(ii) Contractual adjustments related to bank card discounts, negotiated rates and all other nongovernmental-sponsored patients are not allowable as deductions from revenue for rate setting purposes, except as provided for by WAC 261-40-170(4);

(iii) Contractual adjustments relating to contracts executed with the department of social and health services, under the Medicaid selective contracting program, are allowable as deductions from revenue for rate setting purposes;

(iv) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(v) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification; and

(vi) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

(g) Whether the reviews performed in accordance with (a), (b), (c), (d), (e) and (f) of this subsection result in rates, rate schedules, other charges, and changes therein which are the most reasonable under the circumstances.

(i) Rate setting revenue per adjusted case mix value unit should not exceed the 70th percentile of the peer group revenue screens as adjusted for each hospital's case mix index unless the hospital demonstrates to the commission's satisfaction that the relatively high rates are acceptable;

(ii) After allocating deductions from revenue and capital allowance to the various hospital revenue centers as a constant percentage of operating expenses, cross subsidization shall not exceed plus or minus five percent of expenses for rate setting, unless the commission concurs with a specific hospital request for larger levels of cross subsidization or the hospital is a basic service hospital as defined by the commission.

(iii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria including the relative level of deductions from revenue experienced by the hospitals;

(iv) If the rates are not approved as requested, including the disapproval of requested cross-subsidization levels, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order. Upon notification that the rates are in accordance with the decision and order, the approved rates are the maximum revenue that a hospital may receive for each unit of service, except for such rate changes as may be necessary to reflect differences between approved and actual volumes and deductions from revenue. Variable costs associated with changes in volumes will be determined in accordance with the variable cost ratios as described in (6)(d) below.

(6) Whether the rates implemented and revenues collected by the hospital in the previous budget year conformed to the applicable commission determination for that year.

(a) Conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of the aggregate rate per adjusted case mix value unit. The revenues may be modified, where appropriate, for volume variance between budgeted and actual levels of adjusted case mix value units.

(b) Actual allowable, rather than budgeted, deductions from revenue will be used in the conformance calculation.

(c) The approved capital allowance shall be considered a fixed cost when considering year-end conformance.

(d) Only that portion of total operating costs designated as variable according to the following schedule will be adjusted for volume variance:

(i) Peer Group A and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent;

(ii) Peer Group B and specialty hospital having from fifty to one hundred seventy-five beds; fixed costs - sixty-five percent, variable costs - thirty-five percent; and

(iii) Peer Group C and specialty hospitals having more than one hundred seventy-five beds; fixed costs - fifty percent, variable costs - fifty percent.

(e) Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs by natural classification of expense. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable operating expense variance due to volume changes.

(f) The hospital may submit any proposed justifying information to explain deviations/variances from approved revenues.

(i) Any proposed justifying information must include at least the following supporting information:

(A) The exact nature and extent of the factors contributing to excess revenue;

(B) The date at which hospital management became aware of the factors contributing to excess revenue;

(C) The date at which hospital management increased rates above the allowable level taking into account volume changes and actual deductions from revenue;

(D) An explanation of efforts to reduce other components of the budget to offset the factors contributing to the excess revenues; and

(E) An explanation of why the hospital did not seek a budget amendment.

(ii) In no event will increased operating expenses be accepted as justification if the volume adjusted allowable operating expenses equal or exceed the actual level.

(iii) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been controlled by hospital management.

(iv) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been anticipated by the hospital or could have been identified by the hospital in sufficient time to submit a budget amendment in accordance with WAC 261-20-045.

(v) In no event will capital allowance in excess of the approved level be accepted as justification.

(vi) Hospitals will be allowed to retain any actual capital allowance in excess of the approved level that results from cost effective practices as defined as, and measured by, actual operating expenses that are below the volume adjusted approved operating expenses.

(g) Staff shall notify each hospital found to be out of conformance within sixty days of receiving the hospital's year-end conformance reports. If the commission determines that a hospital's revenues have not conformed to the applicable determinations for that year, a decision and order will be issued reducing the hospital's current budget and rates by the amount that actual revenues exceed allowable revenues.

(7) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services; and

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

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

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.

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

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16-436-140	AMD	88-11-048	16-750-011	NEW-E	88-03-059	67-25-400	AMD-P	88-04-016
16-436-160	AMD-P	88-08-071	16-750-011	NEW	88-07-016	67-25-400	AMD	88-09-006
16-436-160	AMD	88-11-048	16-750-011	AMD-E	88-13-007	67-25-404	AMD-P	88-04-016
16-436-165	NEW-P	88-08-071	16-750-011	AMD-P	88-13-049	67-25-404	AMD	88-09-006
16-436-165	NEW	88-11-048	16-750-015	NEW-P	88-03-057	67-25-570	AMD-P	88-04-016
16-436-170	AMD-P	88-08-071	16-750-015	NEW-E	88-03-059	67-25-570	AMD	88-09-006
16-436-170	AMD	88-11-048	16-750-015	NEW	88-07-016	82-50-021	AMD-P	88-13-092
16-436-185	AMD-P	88-08-071	16-750-900	NEW-P	88-03-057	82-50-031	AMD-P	88-13-092
16-436-185	AMD	88-11-048	16-750-900	NEW-E	88-03-059	82-50-041	REP-P	88-13-092
16-436-190	AMD-P	88-08-071	16-750-900	NEW	88-07-016	98-11-005	NEW-P	88-03-062
16-436-190	AMD	88-11-048	16-752-001	AMD	88-04-044	98-11-005	NEW	88-07-032
16-436-220	AMD-P	88-08-071	16-752-115	NEW	88-04-044	98-40-050	AMD-P	88-03-062
16-436-220	AMD	88-11-048	16-752-120	NEW	88-04-044	98-40-050	AMD	88-07-032
16-470-010	AMD-E	88-12-082	16-752-125	NEW	88-04-044	100-100-050	AMD-P	88-11-076
16-470-010	AMD-P	88-12-083	16-752-130	NEW	88-04-044	100-100-050	AMD-E	88-11-077
16-470-015	AMD-E	88-12-082	16-752-135	NEW	88-04-044	106-116-850	NEW-P	88-07-017
16-470-015	AMD-P	88-12-083	16-752-140	NEW	88-04-044	106-116-850	NEW-E	88-11-065
16-470-600	NEW-E	88-09-002	16-752-145	NEW	88-04-044	106-116-850	NEW	88-11-066
16-470-600	NEW-E	88-12-082	16-752-150	NEW	88-04-044	106-116-853	NEW-P	88-07-017
16-470-600	NEW-P	88-12-083	16-752-155	NEW	88-04-044	106-116-853	NEW-E	88-11-065
16-470-605	NEW-E	88-09-002	16-752-160	NEW	88-04-044	106-116-853	NEW	88-11-066
16-470-605	NEW-E	88-12-082	16-752-165	NEW	88-04-044	106-116-856	NEW-P	88-07-017
16-470-605	NEW-P	88-12-083	16-752-170	NEW	88-04-044	106-116-856	NEW-E	88-11-065
16-470-610	NEW-E	88-09-002	16-752-200	NEW	88-04-044	106-116-856	NEW	88-11-066
16-470-610	NEW-E	88-12-082	16-752-201	NEW	88-04-044	106-116-859	NEW-P	88-07-017
16-470-610	NEW-P	88-12-083	16-752-202	NEW	88-04-044	106-116-859	NEW-E	88-11-065

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
106-116-859	NEW	88-11-066	132E-12-307	REP-P	88-13-097	132E-112-170	REP	88-10-014
106-116-901	AMD-P	88-07-017	132E-12-308	REP-P	88-13-097	132E-112-180	REP-P	88-06-020
106-116-901	AMD-E	88-11-065	132E-12-311	REP-P	88-13-097	132E-112-180	REP	88-10-014
106-116-901	AMD	88-11-066	132E-12-314	REP-P	88-13-097	132E-112-190	REP-P	88-06-020
113-12-200	AMD-P	88-05-058	132E-12-317	REP-P	88-13-097	132E-112-190	REP	88-10-014
132E-12-003	REP-P	88-13-097	132E-12-320	REP-P	88-13-097	132E-112-200	REP-P	88-06-020
132E-12-006	REP-P	88-13-097	132E-12-323	REP-P	88-13-097	132E-112-200	REP	88-10-014
132E-12-009	REP-P	88-13-097	132E-12-326	REP-P	88-13-097	132E-112-210	REP-P	88-06-020
132E-12-012	REP-P	88-13-097	132E-12-329	REP-P	88-13-097	132E-112-210	REP	88-10-014
132E-12-015	REP-P	88-13-097	132E-12-332	REP-P	88-13-097	132E-112-220	REP-P	88-06-020
132E-12-018	REP-P	88-13-097	132E-12-335	REP-P	88-13-097	132E-112-220	REP	88-10-014
132E-12-021	REP-P	88-13-097	132E-12-338	REP-P	88-13-097	132E-112-230	REP-P	88-06-020
132E-12-024	REP-P	88-13-097	132E-12-341	REP-P	88-13-097	132E-112-230	REP	88-10-014
132E-12-027	REP-P	88-13-097	132E-12-344	REP-P	88-13-097	132E-120-050	REP-P	88-13-001
132E-12-030	REP-P	88-13-097	132E-12-347	REP-P	88-13-097	132E-120-060	REP-P	88-13-001
132E-12-033	REP-P	88-13-097	132E-12-350	REP-P	88-13-097	132E-120-070	REP-P	88-13-001
132E-12-036	REP-P	88-13-097	132E-12-353	REP-P	88-13-097	132E-120-080	REP-P	88-13-001
132E-12-037	REP-P	88-13-097	132E-12-356	REP-P	88-13-097	132E-121-010	NEW-P	88-13-096
132E-12-039	REP-P	88-13-097	132E-12-359	REP-P	88-13-097	132E-124-030	REP-P	88-08-022
132E-12-042	REP-P	88-13-097	132E-12-362	REP-P	88-13-097	132E-124-030	REP	88-12-004
132E-12-045	REP-P	88-13-097	132E-12-365	REP-P	88-13-097	132E-124-040	REP-P	88-08-022
132E-12-048	REP-P	88-13-097	132E-12-368	REP-P	88-13-097	132E-124-040	REP	88-12-004
132E-12-051	REP-P	88-13-097	132E-12-371	REP-P	88-13-097	132E-124-050	REP-P	88-08-022
132E-12-054	REP-P	88-13-097	132E-12-374	REP-P	88-13-097	132E-124-050	REP	88-12-004
132E-12-057	REP-P	88-13-097	132E-12-377	REP-P	88-13-097	132E-124-060	REP-P	88-08-022
132E-12-060	REP-P	88-13-097	132E-12-380	REP-P	88-13-097	132E-124-060	REP	88-12-004
132E-12-063	REP-P	88-13-097	132E-12-383	REP-P	88-13-097	132E-168-010	REP-P	88-08-019
132E-12-066	REP-P	88-13-097	132E-12-386	REP-P	88-13-097	132E-168-010	REP	88-12-006
132E-12-069	REP-P	88-13-097	132E-12-389	REP-P	88-13-097	132E-168-020	REP-P	88-08-019
132E-12-072	REP-P	88-13-097	132E-12-392	REP-P	88-13-097	132E-168-020	REP	88-12-006
132E-12-075	REP-P	88-13-097	132E-12-395	REP-P	88-13-097	132E-168-030	REP-P	88-08-019
132E-12-078	REP-P	88-13-097	132E-12-398	REP-P	88-13-097	132E-168-030	REP	88-12-006
132E-12-084	REP-P	88-13-097	132E-12-401	REP-P	88-13-097	132E-168-040	REP-P	88-08-019
132E-12-087	REP-P	88-13-097	132E-12-404	REP-P	88-13-097	132E-168-040	REP	88-12-006
132E-12-096	REP-P	88-13-097	132E-12-407	REP-P	88-13-097	132E-168-050	REP-P	88-08-019
132E-12-120	REP-P	88-13-097	132E-12-410	REP-P	88-13-097	132E-168-050	REP	88-12-006
132E-12-144	REP-P	88-13-097	132E-12-413	REP-P	88-13-097	132E-168-060	REP-P	88-08-019
132E-12-147	REP-P	88-13-097	132E-12-416	REP-P	88-13-097	132E-168-060	REP	88-12-006
132E-12-150	REP-P	88-13-097	132E-12-419	REP-P	88-13-097	132E-168-070	REP-P	88-08-019
132E-12-153	REP-P	88-13-097	132E-12-422	REP-P	88-13-097	132E-168-070	REP	88-12-006
132E-12-165	REP-P	88-13-097	132E-12-425	REP-P	88-13-097	132E-168-080	REP-P	88-08-019
132E-12-168	REP-P	88-13-097	132E-12-428	REP-P	88-13-097	132E-168-080	REP	88-12-006
132E-12-171	REP-P	88-13-097	132E-12-431	REP-P	88-13-097	132E-168-090	REP-P	88-08-019
132E-12-174	REP-P	88-13-097	132E-12-434	REP-P	88-13-097	132E-168-090	REP	88-12-006
132E-12-177	REP-P	88-13-097	132E-112-010	REP-P	88-06-020	132E-276-030	AMD-P	88-08-053
132E-12-180	REP-P	88-13-097	132E-112-010	REP	88-10-014	132E-276-030	AMD	88-12-005
132E-12-183	REP-P	88-13-097	132E-112-020	REP-P	88-06-020	132E-276-060	AMD-P	88-10-023
132E-12-186	REP-P	88-13-097	132E-112-020	REP	88-10-014	132E-276-070	AMD-P	88-10-023
132E-12-189	REP-P	88-13-097	132E-112-030	REP-P	88-06-020	132F-120-090	AMD-P	88-03-044
132E-12-192	REP-P	88-13-097	132E-112-030	REP	88-10-014	132F-120-090	AMD	88-08-069
132E-12-195	REP-P	88-13-097	132E-112-040	REP-P	88-06-020	132H-105-140	AMD-P	88-06-058
132E-12-198	REP-P	88-13-097	132E-112-040	REP	88-10-014	132H-105-140	AMD-P	88-07-089
132E-12-201	REP-P	88-13-097	132E-112-050	REP-P	88-06-020	132H-105-140	AMD	88-13-047
132E-12-204	REP-P	88-13-097	132E-112-050	REP	88-10-014	132H-200-200	NEW-P	88-04-059
132E-12-207	REP-P	88-13-097	132E-112-060	REP-P	88-06-020	132H-200-200	NEW	88-07-036
132E-12-210	REP-P	88-13-097	132E-112-060	REP	88-10-014	132H-200-250	NEW-P	88-07-088
132E-12-212	REP-P	88-13-097	132E-112-070	REP-P	88-06-020	132H-200-250	NEW	88-13-048
132E-12-215	REP-P	88-13-097	132E-112-070	REP	88-10-014	132I-14-010	REP-P	88-03-047
132E-12-228	REP-P	88-13-097	132E-112-080	REP-P	88-06-020	132I-14-010	REP	88-07-119
132E-12-231	REP-P	88-13-097	132E-112-080	REP	88-10-014	132I-14-020	REP-P	88-03-047
132E-12-261	REP-P	88-13-097	132E-112-090	REP-P	88-06-020	132I-14-020	REP	88-07-119
132E-12-264	REP-P	88-13-097	132E-112-090	REP	88-10-014	132I-14-030	REP-P	88-03-047
132E-12-267	REP-P	88-13-097	132E-112-100	REP-P	88-06-020	132I-14-030	REP	88-07-119
132E-12-270	REP-P	88-13-097	132E-112-100	REP	88-10-014	132I-14-040	REP-P	88-03-047
132E-12-273	REP-P	88-13-097	132E-112-110	REP-P	88-06-020	132I-14-040	REP	88-07-119
132E-12-276	REP-P	88-13-097	132E-112-110	REP	88-10-014	132I-14-050	REP-P	88-03-047
132E-12-279	REP-P	88-13-097	132E-112-120	REP-P	88-06-020	132I-14-050	REP	88-07-119
132E-12-281	REP-P	88-13-097	132E-112-120	REP	88-10-014	132I-14-060	REP-P	88-03-047
132E-12-284	REP-P	88-13-097	132E-112-130	REP-P	88-06-020	132I-14-060	REP	88-07-119
132E-12-287	REP-P	88-13-097	132E-112-130	REP	88-10-014	132I-14-070	REP-P	88-03-047
132E-12-290	REP-P	88-13-097	132E-112-140	REP-P	88-06-020	132I-14-070	REP	88-07-119
132E-12-293	REP-P	88-13-097	132E-112-140	REP	88-10-014	132I-14-080	REP-P	88-03-047
132E-12-296	REP-P	88-13-097	132E-112-150	REP-P	88-06-020	132I-14-080	REP	88-07-119
132E-12-299	REP-P	88-13-097	132E-112-150	REP	88-10-014	132I-14-090	REP-P	88-03-047
132E-12-302	REP-P	88-13-097	132E-112-160	REP-P	88-06-020	132I-14-090	REP	88-07-119
132E-12-305	REP-P	88-13-097	132E-112-160	REP	88-10-014	132I-14-100	REP-P	88-03-047
132E-12-306	REP-P	88-13-097	132E-112-170	REP-P	88-06-020	132I-14-100	REP	88-07-119

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
132I-14-110	REP-P 88-03-047	132N-20-020	NEW-P 88-11-047	132U-80-090	REP-P 88-07-029
132I-14-110	REP 88-07-119	132N-20-030	NEW-P 88-11-047	132U-80-100	REP-P 88-07-029
132I-14-120	REP-P 88-03-047	132N-20-040	NEW-P 88-11-047	132U-80-105	REP-P 88-07-029
132I-14-120	REP 88-07-119	132N-20-050	NEW-P 88-11-047	132U-80-110	REP-P 88-07-029
132I-14-130	REP-P 88-03-047	132N-20-060	NEW-P 88-11-047	132U-80-115	REP-P 88-07-029
132I-14-130	REP 88-07-119	132N-20-070	NEW-P 88-11-047	132U-80-125	REP-P 88-07-029
132I-14-140	REP-P 88-03-047	132N-20-080	NEW-P 88-11-047	132U-80-200	REP-P 88-07-029
132I-14-140	REP 88-07-119	132N-20-090	NEW-P 88-11-047	132U-80-205	REP-P 88-07-029
132I-14-150	REP-P 88-03-047	132P-40-001	NEW-P 88-04-024	132U-80-210	REP-P 88-07-029
132I-14-150	REP 88-07-119	132P-40-001	NEW 88-12-012	132U-80-220	REP-P 88-07-029
132I-14-160	REP-P 88-03-047	132T-05-060	AMD-P 88-03-045	132U-80-230	REP-P 88-07-029
132I-14-160	REP 88-07-119	132T-05-060	AMD 88-07-019	132U-80-235	REP-P 88-07-029
132I-14-170	REP-P 88-03-047	132T-128-010	REP-P 88-03-046	132U-80-240	REP-P 88-07-029
132I-14-170	REP 88-07-119	132T-128-010	REP 88-07-020	132U-80-245	REP-P 88-07-029
132I-14-180	REP-P 88-03-047	132T-128-020	REP-P 88-03-046	132U-80-250	REP-P 88-07-029
132I-14-180	REP 88-07-119	132T-128-020	REP 88-07-020	132U-80-255	REP-P 88-07-029
132I-14-190	REP-P 88-03-047	132T-128-030	REP-P 88-03-046	132U-80-265	REP-P 88-07-029
132I-14-190	REP 88-07-119	132T-128-030	REP 88-07-020	132U-80-300	REP-P 88-07-029
132I-14-200	REP-P 88-03-047	132T-128-040	REP-P 88-03-046	132U-80-310	REP-P 88-07-029
132I-14-200	REP 88-07-119	132T-128-040	REP 88-07-020	132U-80-320	REP-P 88-07-029
132I-14-210	REP-P 88-03-047	132T-128-050	REP-P 88-03-046	132U-80-330	REP-P 88-07-029
132I-14-210	REP 88-07-119	132T-128-050	REP 88-07-020	132U-80-340	REP-P 88-07-029
132I-120-010	NEW-P 88-03-048	132T-128-060	REP-P 88-03-046	132U-80-350	REP-P 88-07-029
132I-120-010	NEW 88-07-120	132T-128-060	REP 88-07-020	132U-80-360	REP-P 88-07-029
132I-120-020	NEW-P 88-03-048	132T-128-070	REP-P 88-03-046	132U-80-370	REP-P 88-07-029
132I-120-020	NEW 88-07-120	132T-128-070	REP 88-07-020	132U-104	NEW-C 88-12-020
132I-120-030	NEW-P 88-03-048	132T-128-080	REP-P 88-03-046	132U-104-010	NEW-P 88-07-029
132I-120-030	NEW 88-07-120	132T-128-080	REP 88-07-020	132U-104-020	NEW-P 88-07-029
132I-120-100	NEW-P 88-03-048	132T-128-090	REP-P 88-03-046	132U-104-030	NEW-P 88-07-029
132I-120-100	NEW 88-07-120	132T-128-090	REP 88-07-020	132U-116-010	NEW-E 88-02-047
132I-120-300	NEW-P 88-03-048	132U-04	REP-C 88-12-020	132U-116-010	NEW-P 88-04-070
132I-120-300	NEW 88-07-120	132U-04-100	REP-P 88-07-029	132U-116-010	NEW 88-07-057
132I-120-305	NEW-P 88-03-048	132U-04-110	REP-P 88-07-029	132U-116-020	NEW-E 88-02-047
132I-120-310	NEW 88-07-120	132U-10	REP-C 88-12-020	132U-116-020	NEW-P 88-04-070
132I-120-310	NEW 88-07-120	132U-10-100	REP-P 88-07-029	132U-116-020	NEW 88-07-057
132I-120-315	NEW-P 88-03-048	132U-10-110	REP-P 88-07-029	132U-116-030	NEW-E 88-02-047
132I-120-315	NEW 88-07-120	132U-10-120	REP-P 88-07-029	132U-116-030	NEW-P 88-04-070
132I-120-320	NEW-P 88-03-048	132U-10-130	REP-P 88-07-029	132U-116-030	NEW 88-07-057
132I-120-320	NEW 88-07-120	132U-10-140	REP-P 88-07-029	132U-120	NEW-C 88-12-020
132I-120-325	NEW-P 88-03-048	132U-10-150	REP-P 88-07-029	132U-120-010	NEW-P 88-07-029
132I-120-325	NEW 88-07-120	132U-10-160	REP-P 88-07-029	132U-120-020	NEW-P 88-07-029
132I-120-330	NEW-P 88-03-048	132U-10-170	REP-P 88-07-029	132U-120-030	NEW-P 88-07-029
132I-120-330	NEW 88-07-120	132U-10-180	REP-P 88-07-029	132U-120-040	NEW-P 88-07-029
132I-120-335	NEW-P 88-03-048	132U-10-190	REP-P 88-07-029	132U-120-050	NEW-P 88-07-029
132I-120-340	NEW 88-07-120	132U-10-200	REP-P 88-07-029	132U-120-060	NEW-P 88-07-029
132I-120-345	NEW-P 88-03-048	132U-10-210	REP-P 88-07-029	132U-120-070	NEW-P 88-07-029
132I-120-345	NEW 88-07-120	132U-10-220	REP-P 88-07-029	132U-120-080	NEW-P 88-07-029
132I-120-400	NEW-P 88-03-048	132U-10-230	REP-P 88-07-029	132U-120-090	NEW-P 88-07-029
132I-120-400	NEW 88-07-120	132U-10-240	REP-P 88-07-029	132U-120-100	NEW-P 88-07-029
132I-120-405	NEW-P 88-03-048	132U-36	REP-C 88-12-020	132U-120-110	NEW-P 88-07-029
132I-120-405	NEW 88-07-120	132U-36-010	REP-P 88-07-029	132U-120-120	NEW-P 88-07-029
132I-120-410	NEW-P 88-03-048	132U-40	REP-C 88-12-020	132U-120-130	NEW-P 88-07-029
132I-120-410	NEW 88-07-120	132U-40-010	REP-P 88-07-029	132U-120-140	NEW-P 88-07-029
132I-120-415	NEW-P 88-03-048	132U-40-020	REP-P 88-07-029	132U-120-150	NEW-P 88-07-029
132I-120-415	NEW 88-07-120	132U-40-030	REP-P 88-07-029	132U-120-160	NEW-P 88-07-029
132I-120-420	NEW-P 88-03-048	132U-40-040	REP-P 88-07-029	132U-120-170	NEW-P 88-07-029
132I-120-420	NEW 88-07-120	132U-40-050	REP-P 88-07-029	132U-120-180	NEW-P 88-07-029
132I-120-425	NEW-P 88-03-048	132U-40-060	REP-P 88-07-029	132U-120-190	NEW-P 88-07-029
132I-120-425	NEW 88-07-120	132U-40-070	REP-P 88-07-029	132U-120-200	NEW-P 88-07-029
132I-120-430	NEW-P 88-03-048	132U-40-080	REP-P 88-07-029	132U-120-210	NEW-P 88-07-029
132I-120-430	NEW 88-07-120	132U-40-090	REP-P 88-07-029	132U-120-220	NEW-P 88-07-029
132I-120-435	NEW-P 88-03-048	132U-40-100	REP-P 88-07-029	132U-120-230	NEW-P 88-07-029
132I-120-435	NEW 88-07-120	132U-40-110	REP-P 88-07-029	132U-120-240	NEW-P 88-07-029
132I-120-440	NEW-P 88-03-048	132U-40-120	REP-P 88-07-029	132U-120-250	NEW-P 88-07-029
132I-120-440	NEW 88-07-120	132U-40-130	REP-P 88-07-029	132U-120-260	NEW-P 88-07-029
132I-120-445	NEW-P 88-03-048	132U-40-140	REP-P 88-07-029	132U-120-270	NEW-P 88-07-029
132I-120-445	NEW 88-07-120	132U-52-010	NEW-E 88-02-047	132U-120-280	NEW-P 88-07-029
132I-120-500	NEW-P 88-03-048	132U-52-010	NEW-P 88-04-070	132U-120-290	NEW-P 88-07-029
132I-120-500	NEW 88-07-120	132U-80	NEW 88-07-057	132U-120-300	NEW-P 88-07-029
132I-120-510	NEW-P 88-03-048	132U-80-010	REP-C 88-12-020	132U-120-310	NEW-P 88-07-029
132I-120-510	NEW 88-07-120	132U-80-020	REP-P 88-07-029	132U-120-320	NEW-P 88-07-029
132I-120-520	NEW-P 88-03-048	132U-80-030	REP-P 88-07-029	132U-120-330	NEW-P 88-07-029
132I-120-520	NEW 88-07-120	132U-80-060	REP-P 88-07-029	132U-122	NEW-C 88-12-020
132N-20-010	NEW-P 88-11-047	132U-80-065	REP-P 88-07-029	132U-122-010	NEW-P 88-07-029
		132U-80-070	REP-P 88-07-029	132U-122-020	NEW-P 88-07-029
		132U-80-080	REP-P 88-07-029	132U-140	NEW-C 88-12-020
				132U-140-010	NEW-P 88-07-029

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132U-140-030	NEW-P	88-07-029	154-12-110	AMD	88-12-028	154-200-020	NEW-P	88-07-104
132U-140-040	NEW-P	88-07-029	154-24-010	AMD-P	88-09-075	154-200-020	NEW	88-11-028
132U-140-050	NEW-P	88-07-029	154-24-010	AMD	88-12-028	154-200-030	NEW-P	88-07-104
132U-140-060	NEW-P	88-07-029	154-110-010	NEW-P	88-07-104	154-200-030	NEW	88-11-028
132U-140-070	NEW-P	88-07-029	154-110-010	NEW	88-11-028	154-200-040	NEW-P	88-07-104
132U-276	NEW-C	88-12-020	154-110-015	NEW-P	88-07-104	154-200-040	NEW	88-11-028
132U-276-100	NEW-P	88-07-029	154-110-015	NEW	88-11-028	162-18-010	REP-P	88-09-080
132U-276-110	NEW-P	88-07-029	154-110-020	NEW-P	88-07-104	162-18-020	REP-P	88-09-080
132U-276-120	NEW-P	88-07-029	154-110-020	NEW	88-11-028	162-18-030	REP-P	88-09-080
132U-276-130	NEW-P	88-07-029	154-110-030	NEW-P	88-07-104	162-18-040	REP-P	88-09-080
132U-276-140	NEW-P	88-07-029	154-110-030	NEW	88-11-028	162-18-050	REP-P	88-09-080
132U-276-150	NEW-P	88-07-029	154-120-010	NEW-P	88-07-104	162-18-060	REP-P	88-09-080
132U-276-160	NEW-P	88-07-029	154-120-010	NEW	88-11-028	162-18-070	REP-P	88-09-080
132U-276-170	NEW-P	88-07-029	154-120-015	NEW-P	88-07-104	162-18-080	REP-P	88-09-080
132U-276-180	NEW-P	88-07-029	154-120-015	NEW	88-11-028	162-18-090	REP-P	88-09-080
132U-276-190	NEW-P	88-07-029	154-120-020	NEW-P	88-07-104	162-18-100	REP-P	88-09-080
132U-276-200	NEW-P	88-07-029	154-120-020	NEW	88-11-028	162-18-110	NEW-P	88-09-080
132U-276-210	NEW-P	88-07-029	154-120-025	NEW-P	88-07-104	162-18-120	NEW-P	88-09-080
132U-276-220	NEW-P	88-07-029	154-120-025	NEW	88-11-028	162-18-130	NEW-P	88-09-080
132U-276-230	NEW-P	88-07-029	154-120-030	NEW-P	88-07-104	162-18-140	NEW-P	88-09-080
132U-276-240	NEW-P	88-07-029	154-120-030	NEW	88-11-028	162-18-150	NEW-P	88-09-080
132U-280	NEW-C	88-12-020	154-120-035	NEW-P	88-07-104	162-18-160	NEW-P	88-09-080
132U-280-010	NEW-P	88-07-029	154-120-035	NEW	88-11-028	162-19-010	NEW-P	88-09-080
132U-280-015	NEW-P	88-07-029	154-120-040	NEW-P	88-07-104	162-19-020	NEW-P	88-09-080
132U-280-020	NEW-P	88-07-029	154-120-040	NEW	88-11-028	162-19-030	NEW-P	88-09-080
132U-280-025	NEW-P	88-07-029	154-120-045	NEW-P	88-07-104	162-19-040	NEW-P	88-09-080
132U-280-030	NEW-P	88-07-029	154-120-045	NEW	88-11-028	162-19-060	NEW-P	88-09-080
132U-280-035	NEW-P	88-07-029	154-120-050	NEW-P	88-07-104	162-19-070	NEW-P	88-09-080
132U-300	NEW-C	88-12-020	154-120-050	NEW	88-11-028	162-19-080	NEW-P	88-09-080
132U-300-010	NEW-P	88-07-029	154-120-055	NEW-P	88-07-104	162-19-090	NEW-P	88-09-080
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132U-325-010	NEW-P	88-07-029	154-130-010	NEW	88-11-028	173-14-030	AMD-P	88-12-067
132Y-20-010	REP-P	88-06-023	154-130-020	NEW-P	88-07-104	173-14-060	AMD-W	88-07-006
132Y-140-001	REP-P	88-06-024	154-130-020	NEW	88-11-028	173-14-061	NEW-W	88-07-006
132Y-140-001	REP	88-13-013	154-130-030	NEW-P	88-07-104	173-18-280	AMD	88-03-070
132Y-140-101	REP-P	88-06-024	154-130-030	NEW	88-11-028	173-19-130	AMD	88-07-009
132Y-140-101	REP	88-13-013	154-140-010	NEW-P	88-07-104	173-19-220	AMD-P	88-03-069
132Y-140-108	REP-P	88-06-024	154-140-010	NEW	88-11-028	173-19-220	AMD-P	88-08-063
132Y-140-108	REP	88-13-013	154-140-020	NEW-P	88-07-104	173-19-220	AMD	88-08-089
132Y-140-112	REP-P	88-06-024	154-140-020	NEW	88-11-028	173-19-2201	AMD-P	88-08-064
132Y-140-112	REP	88-13-013	154-140-030	NEW-P	88-07-104	173-19-2202	AMD-P	88-08-065
132Y-140-116	REP-P	88-06-024	154-140-030	NEW	88-11-028	173-19-2204	AMD-P	88-08-066
132Y-140-116	REP	88-13-013	154-150-010	NEW-P	88-07-104	173-19-2207	AMD-P	88-08-067
136-15-010	NEW-P	88-12-079	154-150-010	NEW	88-11-028	173-19-2208	AMD-P	88-08-068
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136-15-040	NEW-P	88-12-079	154-150-030	NEW-P	88-07-104	173-19-2516	AMD-P	88-12-068
136-15-050	NEW-P	88-12-079	154-150-030	NEW	88-11-028	173-19-310	AMD-W	88-02-053
136-15-060	NEW-P	88-12-079	154-150-040	NEW-P	88-07-104	173-19-310	AMD-P	88-02-054
136-130-050	AMD-C	88-09-034	154-150-040	NEW	88-11-028	173-19-310	AMD	88-07-010
136-130-050	AMD	88-12-080	154-150-050	NEW-P	88-07-104	173-19-3302	AMD	88-02-064
136-130-060	AMD	88-05-040	154-150-050	NEW	88-11-028	173-19-3501	AMD-P	88-05-066
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136-160-050	AMD	88-05-040	154-160-010	NEW	88-11-028	173-19-3512	AMD-C	88-02-063
136-160-060	AMD-P	88-12-079	154-160-020	NEW-P	88-07-104	173-19-3512	AMD-C	88-04-093
136-160-065	NEW	88-05-040	154-160-020	NEW	88-11-028	173-19-3512	AMD	88-07-007
136-220-020	AMD-P	88-12-079	154-170-010	NEW-P	88-07-104	173-19-360	AMD-P	88-12-069
136-220-030	AMD-P	88-12-079	154-170-010	NEW	88-11-028	173-19-360	AMD-C	88-13-119
137-60-040	AMD-W	88-04-043	154-180-010	NEW-P	88-07-104	173-22-0648	AMD	88-03-070
137-78-010	NEW-P	88-12-002	154-180-010	NEW	88-11-028	173-95-010	NEW-P	88-09-076
137-78-020	NEW-P	88-12-002	154-180-020	NEW-P	88-07-104	173-95-020	NEW-P	88-09-076
137-78-030	NEW-P	88-12-002	154-180-020	NEW	88-11-028	173-95-030	NEW-P	88-09-076
137-78-040	NEW-P	88-12-002	154-180-030	NEW-P	88-07-104	173-95-040	NEW-P	88-09-076
137-78-050	NEW-P	88-12-002	154-180-030	NEW	88-11-028	173-95-050	NEW-P	88-09-076
137-78-060	NEW-P	88-12-002	154-180-040	NEW-P	88-07-104	173-95-060	NEW-P	88-09-076
137-78-070	NEW-P	88-12-002	154-180-040	NEW	88-11-028	173-95-070	NEW-P	88-09-076
137-78-080	NEW-P	88-12-002	154-180-050	NEW-P	88-07-104	173-95-080	NEW-P	88-09-076
154-04-040	AMD-P	88-09-075	154-180-050	NEW	88-11-028	173-95-090	NEW-P	88-09-076
154-04-040	AMD	88-12-028	154-180-060	NEW-P	88-07-104	173-95-100	NEW-P	88-09-076
154-12-015	AMD-P	88-09-075	154-180-060	NEW	88-11-028	173-95-110	NEW-P	88-09-076
154-12-015	AMD	88-12-028	154-180-070	NEW-P	88-07-104	173-95-120	NEW-P	88-09-076
154-12-020	AMD-P	88-09-075	154-180-070	NEW	88-11-028	173-95-130	NEW-P	88-09-076
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154-12-030	AMD-P	88-09-075	154-190-010	NEW	88-11-028	173-95-150	NEW-P	88-09-076
154-12-030	AMD	88-12-028	154-200-010	NEW-P	88-07-104	173-95-160	NEW-P	88-09-076

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173-100-050	AMD 88-13-037	173-160	AMD-C 88-04-071	173-160-465	NEW 88-08-070
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173-100-160	NEW 88-13-037	173-160-010	AMD 88-08-070	173-160-500	NEW 88-08-070
173-110-010	NEW-E 88-08-020	173-160-020	AMD 88-08-070	173-160-510	NEW 88-08-070
173-110-020	NEW-E 88-08-020	173-160-030	AMD 88-08-070	173-160-520	NEW 88-08-070
173-110-030	NEW-E 88-08-020	173-160-040	AMD 88-08-070	173-160-530	NEW 88-08-070
173-110-040	NEW-E 88-08-020	173-160-050	AMD 88-08-070	173-160-540	NEW 88-08-070
173-110-050	NEW-E 88-08-020	173-160-055	NEW 88-08-070	173-160-550	NEW 88-08-070
173-110-060	NEW-E 88-08-020	173-160-060	REP 88-08-070	173-160-560	NEW 88-08-070
173-110-070	NEW-E 88-08-020	173-160-065	NEW 88-08-070	173-162	AMD-C 88-04-071
173-110-080	NEW-E 88-08-020	173-160-070	REP 88-08-070	173-162	AMD 88-08-070
173-110-090	NEW-E 88-08-020	173-160-075	NEW 88-08-070	173-162-010	AMD 88-08-070
173-110-100	NEW-E 88-08-020	173-160-080	REP 88-08-070	173-162-020	AMD 88-08-070
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173-124-06001	REP 88-13-037	173-160-090	REP 88-08-070	173-162-040	AMD 88-08-070
173-124-070	NEW-P 88-09-054	173-160-09001	REP 88-08-070	173-162-050	AMD 88-08-070
173-124-070	NEW 88-13-037	173-160-095	NEW 88-08-070	173-162-060	AMD 88-08-070
173-124-080	NEW-P 88-09-054	173-160-100	REP 88-08-070	173-162-100	AMD 88-08-070
173-124-080	NEW 88-13-037	173-160-105	NEW 88-08-070	173-162-110	REP 88-08-070
173-128A-060	NEW-P 88-09-054	173-160-110	REP 88-08-070	173-162-130	AMD 88-08-070
173-128A-060	NEW 88-13-037	173-160-115	NEW 88-08-070	173-162-140	AMD 88-08-070
173-130A-215	NEW-P 88-09-054	173-160-120	REP 88-08-070	173-162-150	REP 88-08-070
173-130A-215	NEW 88-13-037	173-160-125	NEW 88-08-070	173-162-160	REP 88-08-070
173-130A-217	NEW-P 88-09-054	173-160-130	REP 88-08-070	173-162-170	AMD 88-08-070
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173-130A-220	AMD 88-13-037	173-160-150	REP 88-08-070	173-162-200	NEW 88-08-070
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173-132-060	NEW 88-13-037	173-160-170	REP 88-08-070	173-162-220	NEW 88-08-070
173-134A-150	AMD-P 88-09-054	173-160-180	REP 88-08-070	173-164-050	AMD-P 88-09-054
173-134A-150	AMD 88-13-037	173-160-190	REP 88-08-070	173-164-050	AMD 88-13-037
173-134A-165	NEW-P 88-09-054	173-160-200	REP 88-08-070	173-164-080	NEW-P 88-09-054
173-134A-165	NEW 88-13-037	173-160-205	NEW 88-08-070	173-164-080	NEW 88-13-037
173-134A-170	AMD-P 88-09-054	173-160-210	REP 88-08-070	173-166-070	NEW-P 88-09-054
173-134A-170	AMD 88-13-037	173-160-215	NEW 88-08-070	173-166-070	NEW 88-13-037
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173-136-095	NEW 88-13-037	173-160-225	NEW 88-08-070	173-201-010	AMD 88-02-058
173-136-100	AMD-P 88-09-054	173-160-230	REP 88-08-070	173-201-025	AMD 88-02-058
173-136-100	AMD 88-13-037	173-160-235	NEW 88-08-070	173-201-035	AMD 88-02-058
173-136-110	NEW-P 88-09-054	173-160-240	REP 88-08-070	173-201-045	AMD 88-02-058
173-136-110	NEW 88-13-037	173-160-245	NEW 88-08-070	173-201-047	NEW 88-02-058
173-150-125	NEW-P 88-09-054	173-160-250	REP 88-08-070	173-201-070	AMD 88-02-058
173-150-125	NEW 88-13-037	173-160-255	NEW 88-08-070	173-201-080	AMD 88-02-058
173-150-130	AMD-P 88-09-054	173-160-260	REP 88-08-070	173-201-090	AMD 88-02-058
173-150-130	AMD 88-13-037	173-160-265	NEW 88-08-070	173-201-100	AMD 88-02-058
173-150-135	NEW-P 88-09-054	173-160-270	REP 88-08-070	173-202-020	AMD-P 88-12-097
173-150-135	NEW 88-13-037	173-160-275	NEW 88-08-070	173-216-130	AMD-P 88-07-103
173-154-095	NEW-P 88-09-054	173-160-280	REP 88-08-070	173-216-130	AMD 88-12-035
173-154-095	NEW 88-13-037	173-160-285	NEW 88-08-070	173-220-010	AMD-P 88-13-095
173-154-100	AMD-P 88-09-054	173-160-290	REP 88-08-070	173-220-020	AMD-P 88-13-095
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173-154-105	NEW-P 88-09-054	173-160-300	REP 88-08-070	173-220-040	AMD-P 88-13-095
173-154-105	NEW 88-13-037	173-160-305	NEW 88-08-070	173-220-045	AMD-P 88-13-095
173-158-010	NEW-P 88-05-042	173-160-310	REP 88-08-070	173-220-050	AMD-P 88-13-095
173-158-010	NEW 88-10-058	173-160-315	NEW 88-08-070	173-220-060	AMD-P 88-13-095
173-158-020	NEW-P 88-05-042	173-160-320	REP 88-08-070	173-220-070	AMD-P 88-13-095
173-158-020	NEW 88-10-058	173-160-325	NEW 88-08-070	173-220-080	AMD-P 88-13-095
173-158-030	NEW-P 88-05-042	173-160-330	REP 88-08-070	173-220-090	AMD-P 88-13-095
173-158-030	NEW 88-10-058	173-160-335	NEW 88-08-070	173-220-100	AMD-P 88-13-095
173-158-040	NEW-P 88-05-042	173-160-340	REP 88-08-070	173-220-120	AMD-P 88-13-095
173-158-040	NEW 88-10-058	173-160-345	NEW 88-08-070	173-220-130	AMD-P 88-13-095
173-158-050	NEW-P 88-05-042	173-160-350	REP 88-08-070	173-220-140	AMD-P 88-13-095
173-158-050	NEW 88-10-058	173-160-355	NEW 88-08-070	173-220-150	AMD-P 88-07-103
173-158-060	NEW-P 88-05-042	173-160-360	REP 88-08-070	173-220-150	AMD 88-12-035
173-158-060	NEW 88-10-058	173-160-365	NEW 88-08-070	173-220-150	AMD-P 88-13-095
173-158-070	NEW-P 88-05-042	173-160-370	REP 88-08-070	173-220-160	AMD-P 88-13-095
173-158-070	NEW 88-10-058	173-160-375	NEW 88-08-070	173-220-180	AMD-P 88-13-095
173-158-080	NEW-P 88-05-042	173-160-380	REP 88-08-070	173-220-190	AMD-P 88-13-095
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173-158-090	NEW 88-10-058	173-160-405	NEW 88-08-070	173-220-220	REP-P 88-13-095
173-158-100	NEW-P 88-05-042	173-160-415	NEW 88-08-070	173-220-225	AMD-P 88-13-095
173-158-100	NEW 88-10-058	173-160-420	NEW 88-08-070	173-222-015	AMD-P 88-07-103
173-158-110	NEW-P 88-05-042	173-160-425	NEW 88-08-070	173-222-015	AMD 88-12-035
173-158-110	NEW 88-10-058	173-160-435	NEW 88-08-070	173-223-015	NEW-P 88-07-103
173-158-120	NEW-P 88-05-042	173-160-445	NEW 88-08-070	173-223-015	NEW 88-12-035

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
173-223-020	NEW-P 88-07-103	173-306-030	NEW-P 88-12-072	173-403-030	AMD-P 88-10-053
173-223-020	NEW 88-12-035	173-306-030	NEW-E 88-12-073	173-403-050	AMD-P 88-10-053
173-223-030	NEW-P 88-07-103	173-306-040	NEW-P 88-12-072	173-403-080	AMD-P 88-10-053
173-223-030	NEW 88-12-035	173-306-040	NEW-E 88-12-073	173-425-030	AMD-P 88-10-053
173-223-040	NEW-P 88-07-103	173-306-050	NEW-P 88-12-072	173-425-035	REP-P 88-10-053
173-223-040	NEW 88-12-035	173-306-050	NEW-E 88-12-073	173-425-036	NEW-P 88-10-053
173-223-050	NEW-P 88-07-103	173-309-010	NEW-P 88-09-049	173-425-045	AMD-P 88-10-053
173-223-050	NEW 88-12-035	173-309-010	NEW-E 88-09-050	173-425-065	AMD-P 88-10-053
173-223-060	NEW-P 88-07-103	173-309-010	NEW-C 88-11-067	173-425-075	AMD-P 88-10-053
173-223-060	NEW 88-12-035	173-309-020	NEW-P 88-09-049	173-425-085	AMD-P 88-10-053
173-223-070	NEW-P 88-07-103	173-309-020	NEW-E 88-09-050	173-425-095	AMD-P 88-10-053
173-223-070	NEW 88-12-035	173-309-020	NEW-C 88-11-067	173-425-130	AMD-P 88-10-053
173-223-080	NEW-P 88-07-103	173-309-030	NEW-P 88-09-049	173-433-030	AMD-P 88-10-052
173-223-080	NEW 88-12-035	173-309-030	NEW-E 88-09-050	173-433-100	AMD-P 88-10-052
173-223-090	NEW-P 88-07-103	173-309-030	NEW-C 88-11-067	173-433-120	AMD-P 88-10-052
173-223-090	NEW 88-12-035	173-309-040	NEW-P 88-09-049	173-433-130	NEW-P 88-10-052
173-223-100	NEW-P 88-07-103	173-309-040	NEW-E 88-09-050	173-435-010	AMD-P 88-10-053
173-223-100	NEW 88-12-035	173-309-040	NEW-C 88-11-067	173-435-020	AMD-P 88-10-053
173-223-110	NEW 88-12-035	173-309-050	NEW-P 88-09-049	173-435-030	AMD-P 88-10-053
173-223-120	NEW-P 88-07-103	173-309-050	NEW-E 88-09-050	173-435-040	AMD-P 88-10-053
173-303	AMD-C 88-03-074	173-309-050	NEW-C 88-11-067	173-435-050	AMD-P 88-10-053
173-303	AMD-C 88-06-041	173-309-060	NEW-P 88-09-049	173-435-060	AMD-P 88-10-053
173-303-120	AMD 88-07-039	173-309-060	NEW-E 88-09-050	173-435-070	AMD-P 88-10-053
173-303-120	AMD-P 88-13-116	173-309-060	NEW-C 88-11-067	173-470-030	AMD-P 88-10-053
173-303-140	AMD 88-02-057	173-309-070	NEW-P 88-09-049	173-470-100	AMD-P 88-10-053
173-303-170	AMD 88-02-057	173-309-070	NEW-E 88-09-050	173-500-010	AMD-P 88-09-054
173-303-280	AMD 88-02-057	173-309-070	NEW-C 88-11-067	173-500-010	AMD 88-13-037
173-303-281	NEW-P 88-13-116	173-309-080	NEW-P 88-09-049	173-500-030	AMD-P 88-09-054
173-303-283	NEW-P 88-13-116	173-309-080	NEW-E 88-09-050	173-500-030	AMD 88-13-037
173-303-284	NEW 88-07-039	173-309-080	NEW-C 88-11-067	173-500-070	NEW-P 88-09-054
173-303-284	REP-P 88-13-116	173-309-090	NEW-P 88-09-049	173-500-070	NEW 88-13-037
173-303-285	NEW 88-07-039	173-309-090	NEW-E 88-09-050	173-501-090	AMD-P 88-09-054
173-303-285	REP-P 88-13-116	173-309-090	NEW-C 88-11-067	173-501-090	AMD 88-13-037
173-303-286	NEW 88-07-039	173-335-010	NEW-E 88-12-070	173-501-095	NEW-P 88-09-054
173-303-286	REP-P 88-13-116	173-335-010	NEW-P 88-12-071	173-501-095	NEW 88-13-037
173-303-400	AMD 88-02-057	173-335-020	NEW-E 88-12-070	173-501-100	AMD-P 88-09-054
173-303-420	AMD 88-07-039	173-335-020	NEW-P 88-12-071	173-501-100	AMD 88-13-037
173-303-420	AMD-P 88-13-116	173-335-030	NEW-E 88-12-070	173-507-020	AMD-P 88-09-054
173-303-430	AMD 88-07-039	173-335-030	NEW-P 88-12-071	173-507-020	AMD 88-13-037
173-303-440	AMD 88-07-039	173-335-040	NEW-E 88-12-070	173-507-070	AMD-P 88-09-054
173-303-510	AMD 88-07-039	173-335-040	NEW-P 88-12-071	173-507-070	AMD 88-13-037
173-303-510	AMD-P 88-13-116	173-335-050	NEW-E 88-12-070	173-507-075	NEW-P 88-09-054
173-303-520	AMD 88-07-039	173-335-050	NEW-P 88-12-071	173-507-075	NEW 88-13-037
173-303-520	AMD-P 88-13-116	173-336-010	NEW-P 88-11-072	173-507-080	AMD-P 88-09-054
173-303-560	AMD 88-07-039	173-336-020	NEW-P 88-11-072	173-507-080	AMD 88-13-037
173-303-560	AMD-P 88-13-116	173-336-030	NEW-P 88-11-072	173-508-070	AMD-P 88-09-054
173-303-600	AMD 88-07-039	173-338-010	NEW-P 88-11-073	173-508-070	AMD 88-13-037
173-303-600	AMD-P 88-13-116	173-338-020	NEW-P 88-11-073	173-508-090	AMD-P 88-09-054
173-303-650	AMD 88-07-039	173-338-030	NEW-P 88-11-073	173-508-090	AMD 88-13-037
173-303-650	AMD-P 88-13-116	173-338-040	NEW-P 88-11-073	173-508-095	NEW-P 88-09-054
173-303-665	AMD 88-02-057	173-338-050	NEW-P 88-11-073	173-508-095	NEW 88-13-037
173-303-800	AMD 88-07-039	173-340-010	NEW-P 88-07-105	173-508-100	AMD-P 88-09-054
173-303-800	AMD-P 88-13-116	173-340-010	NEW-E 88-07-106	173-508-100	AMD 88-13-037
173-303-802	AMD 88-07-039	173-340-010	NEW-C 88-10-055	173-508-100	AMD 88-13-037
173-303-802	AMD-P 88-13-116	173-340-010	NEW 88-13-036	173-509-030	AMD-P 88-09-054
173-303-805	AMD 88-07-039	173-340-010	NEW-E 88-13-085	173-509-030	AMD 88-13-037
173-303-805	AMD-P 88-13-116	173-340-020	NEW-P 88-07-105	173-509-080	AMD-P 88-09-054
173-303-806	AMD 88-07-039	173-340-020	NEW-E 88-07-106	173-509-080	AMD 88-13-037
173-303-806	AMD-P 88-13-116	173-340-020	NEW-C 88-10-055	173-509-085	NEW-P 88-09-054
173-303-901	NEW 88-07-039	173-340-020	NEW 88-13-036	173-509-090	AMD-P 88-09-054
173-303-901	REP-P 88-13-116	173-340-020	NEW-E 88-13-085	173-509-090	AMD 88-13-037
173-303-905	NEW-P 88-13-116	173-340-030	NEW-P 88-07-105	173-509-090	AMD-P 88-09-054
173-303-910	AMD 88-02-057	173-340-030	NEW-E 88-07-106	173-510-030	AMD 88-13-037
173-304	AMD-C 88-08-062	173-340-030	NEW-C 88-10-055	173-510-030	AMD 88-13-037
173-304-100	AMD-P 88-04-074	173-340-030	NEW 88-13-036	173-510-090	AMD-P 88-09-054
173-304-400	AMD-P 88-04-074	173-340-030	NEW-E 88-13-085	173-510-090	AMD 88-13-037
173-304-405	AMD-P 88-04-074	173-340-040	NEW-P 88-07-105	173-510-095	NEW-P 88-09-054
173-304-407	NEW-P 88-04-074	173-340-040	NEW-E 88-07-106	173-510-095	NEW 88-13-037
173-304-430	AMD-P 88-04-074	173-340-040	NEW-C 88-10-055	173-510-100	AMD-P 88-09-054
173-304-450	AMD-P 88-04-074	173-340-040	NEW 88-13-036	173-510-100	AMD 88-13-037
173-304-460	AMD-P 88-04-074	173-340-040	NEW-E 88-13-085	173-511-090	AMD-P 88-09-054
173-304-467	NEW-P 88-04-074	173-340-050	NEW-P 88-07-105	173-511-090	AMD 88-13-037
173-304-600	AMD-P 88-04-074	173-340-050	NEW-E 88-07-106	173-511-095	NEW-P 88-09-054
173-306-010	NEW-P 88-12-072	173-340-050	NEW-C 88-10-055	173-511-100	AMD-P 88-09-054
173-306-010	NEW-E 88-12-073	173-340-050	NEW 88-13-036	173-511-100	AMD 88-13-037
173-306-020	NEW-P 88-12-072	173-340-050	NEW-E 88-13-085	173-512-070	AMD-P 88-09-054
173-306-020	NEW-E 88-12-073	173-400-115	AMD-P 88-10-053	173-512-070	AMD 88-13-037

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173-512-075	NEW	88-13-037	173-559-090	NEW-P	88-09-054	180-78-027	REP	88-07-002
173-512-080	AMD-P	88-09-054	173-559-100	NEW	88-13-037	180-78-028	NEW	88-07-002
173-512-080	AMD	88-13-037	173-559-100	NEW-P	88-09-054	180-78-029	NEW	88-07-002
173-513-090	AMD-P	88-09-054	173-559-100	NEW	88-13-037	180-78-030	REP	88-07-002
173-513-090	AMD	88-13-037	173-563-050	AMD-P	88-09-054	180-78-033	NEW	88-07-002
173-513-095	NEW-P	88-09-054	173-563-050	AMD	88-13-037	180-78-035	REP	88-07-002
173-513-095	NEW	88-13-037	173-563-070	AMD-P	88-09-054	180-78-036	NEW	88-07-002
173-513-100	AMD-P	88-09-054	173-563-070	AMD	88-13-037	180-78-037	NEW	88-07-002
173-513-100	AMD	88-13-037	173-563-075	NEW-P	88-09-054	180-78-040	REP	88-07-002
173-514-080	AMD-P	88-09-054	173-563-075	NEW	88-13-037	180-78-047	NEW	88-07-002
173-514-080	AMD	88-13-037	173-563-080	AMD-P	88-09-054	180-78-050	REP	88-07-002
173-514-085	NEW-P	88-09-054	173-563-080	AMD	88-13-037	180-78-055	REP	88-07-002
173-514-085	NEW	88-13-037	173-563-090	AMD-P	88-09-054	180-78-057	AMD	88-07-002
173-514-090	AMD-P	88-09-054	173-563-090	AMD	88-13-037	180-78-060	AMD	88-07-002
173-514-090	AMD	88-13-037	173-590-090	AMD-P	88-09-054	180-78-063	NEW	88-07-002
173-515-090	AMD-P	88-09-054	173-590-090	AMD	88-13-037	180-78-065	NEW	88-07-002
173-515-090	AMD	88-13-037	173-590-110	AMD-P	88-09-054	180-78-068	NEW	88-07-002
173-515-095	NEW-P	88-09-054	173-590-110	AMD	88-13-037	180-78-070	NEW	88-07-002
173-515-095	NEW	88-13-037	173-590-140	AMD-P	88-09-054	180-78-073	NEW	88-07-002
173-515-100	AMD-P	88-09-054	173-590-140	AMD	88-13-037	180-78-074	NEW	88-07-002
173-515-100	AMD	88-13-037	173-590-180	AMD-P	88-09-054	180-78-075	NEW	88-07-002
173-522-020	AMD-P	88-09-054	173-590-180	AMD	88-13-037	180-78-080	NEW	88-07-002
173-522-020	AMD	88-13-037	173-590-190	NEW-P	88-09-054	180-78-085	NEW	88-07-002
173-522-070	NEW-P	88-09-054	173-590-190	NEW	88-13-037	180-78-090	NEW	88-07-002
173-522-070	NEW	88-13-037	173-591-060	AMD-P	88-09-054	180-78-095	NEW	88-07-002
173-522-080	NEW-P	88-09-054	173-591-060	AMD	88-13-037	180-78-100	NEW	88-07-002
173-522-080	NEW	88-13-037	173-591-070	AMD-P	88-09-054	180-78-105	NEW	88-07-002
173-522-090	NEW-P	88-09-054	173-591-070	AMD	88-13-037	180-78-110	NEW	88-07-002
173-522-090	NEW	88-13-037	173-591-115	NEW-P	88-09-054	180-78-115	NEW	88-07-002
173-530-910	REP-P	88-09-054	173-591-115	NEW	88-13-037	180-78-120	NEW	88-07-002
173-530-910	REP	88-13-037	173-591-120	AMD-P	88-09-054	180-78-125	NEW	88-07-002
173-530-920	REP-P	88-09-054	173-591-120	AMD	88-13-037	180-78-130	NEW	88-07-002
173-530-920	REP	88-13-037	173-592-060	AMD-P	88-09-054	180-78-140	NEW	88-07-002
173-530-930	REP-P	88-09-054	173-592-060	AMD	88-13-037	180-78-145	NEW	88-07-002
173-530-930	REP	88-13-037	173-592-070	AMD-P	88-09-054	180-78-150	NEW	88-07-002
173-530-940	REP-P	88-09-054	173-592-070	AMD	88-13-037	180-78-155	NEW	88-07-002
173-530-940	REP	88-13-037	173-592-110	AMD-P	88-09-054	180-78-160	NEW	88-07-002
173-530-950	REP-P	88-09-054	173-592-110	AMD	88-13-037	180-78-160	AMD-E	88-12-015
173-530-950	REP	88-13-037	173-592-115	NEW-P	88-09-054	180-78-165	NEW	88-07-002
173-530-960	REP-P	88-09-054	173-592-115	NEW	88-13-037	180-78-170	NEW	88-07-002
173-530-960	REP	88-13-037	173-596-010	REP-P	88-09-054	180-78-175	NEW	88-07-002
173-531A-080	NEW-P	88-09-054	173-596-010	REP	88-13-037	180-78-180	NEW	88-07-002
173-531A-080	NEW	88-13-037	173-596-015	REP-P	88-09-054	180-78-185	NEW	88-07-002
173-531A-090	NEW-P	88-09-054	173-596-015	REP	88-13-037	180-78-190	NEW	88-07-002
173-531A-090	NEW	88-13-037	173-596-020	REP-P	88-09-054	180-78-193	AMD	88-07-002
173-532-090	NEW-P	88-09-054	173-596-020	REP	88-13-037	180-78-194	AMD	88-07-002
173-532-090	NEW	88-13-037	173-596-025	REP-P	88-09-054	180-78-199	AMD	88-07-002
173-532-100	NEW-P	88-09-054	173-596-025	REP	88-13-037	180-78-205	NEW	88-07-002
173-532-100	NEW	88-13-037	173-596-030	REP-P	88-09-054	180-78-210	NEW	88-07-002
173-532-110	NEW-P	88-09-054	173-596-030	REP	88-13-037	180-78-215	NEW	88-07-002
173-532-110	NEW	88-13-037	173-596-035	REP-P	88-09-054	180-78-220	NEW	88-07-002
173-545-090	AMD-P	88-09-054	173-596-035	REP	88-13-037	180-78-225	NEW	88-07-002
173-545-090	AMD	88-13-037	173-596-040	REP-P	88-09-054	180-78-230	NEW	88-07-002
173-545-095	NEW-P	88-09-054	173-596-040	REP	88-13-037	180-78-235	NEW	88-07-002
173-545-095	NEW	88-13-037	173-596-045	REP-P	88-09-054	180-78-240	NEW	88-07-002
173-545-100	AMD-P	88-09-054	173-596-045	REP	88-13-037	180-78-245	NEW	88-07-002
173-545-100	AMD	88-13-037	173-596-050	REP-P	88-09-054	180-78-250	NEW	88-07-002
173-548-080	NEW-P	88-09-054	173-596-050	REP	88-13-037	180-78-255	NEW	88-07-002
173-548-080	NEW	88-13-037	173-596-055	REP-P	88-09-054	180-78-260	NEW	88-07-002
173-548-090	NEW-P	88-09-054	173-596-055	REP	88-13-037	180-78-265	NEW	88-07-002
173-548-090	NEW	88-13-037	173-596-060	REP-P	88-09-054	180-78-270	NEW	88-07-002
173-548-100	NEW-P	88-09-054	173-596-060	REP	88-13-037	180-78-275	NEW	88-07-002
173-548-100	NEW	88-13-037	173-596-065	REP-P	88-09-054	180-78-280	NEW	88-07-002
173-549-090	AMD-P	88-09-054	173-596-065	REP	88-13-037	180-78-285	NEW	88-07-002
173-549-090	AMD	88-13-037	180-16-223	AMD-P	88-05-024	180-78-290	NEW	88-07-002
173-549-095	NEW-P	88-09-054	180-16-223	AMD-P	88-05-050	180-78-295	NEW	88-07-002
173-549-095	NEW	88-13-037	180-16-223	AMD	88-08-045	180-78-300	NEW	88-07-002
173-549-100	AMD-P	88-09-054	180-57-050	AMD-P	88-08-072	180-78-305	NEW	88-07-002
173-549-100	AMD	88-13-037	180-57-050	AMD	88-13-026	180-78-310	NEW	88-07-002
173-555-080	NEW-P	88-09-054	180-75-085	AMD-P	88-08-073	180-78-315	NEW	88-07-002
173-555-080	NEW	88-13-037	180-75-085	AMD	88-13-009	180-78-320	NEW	88-07-002
173-555-090	NEW-P	88-09-054	180-78	AMD-C	88-03-025	180-78-325	NEW	88-07-002
173-555-090	NEW	88-13-037	180-78	AMD	88-07-002	180-79-007	AMD-E	88-05-045
173-555-100	NEW-P	88-09-054	180-78-007	NEW	88-07-002	180-79-007	AMD-P	88-05-051
173-555-100	NEW	88-13-037	180-78-008	NEW	88-07-002	180-79-007	AMD	88-08-046
173-559-080	NEW-P	88-09-054	180-78-010	AMD	88-07-002	180-79-010	AMD	88-05-047

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180-79-014	REP	88-05-047	180-110-053	NEW	88-06-002	192-16-061	NEW	88-05-034
180-79-045	AMD	88-05-047	180-110-055	NEW	88-06-002	192-16-065	NEW-E	88-07-107
180-79-049	NEW	88-05-047	180-110-060	NEW	88-06-002	192-16-065	NEW-P	88-07-108
180-79-060	AMD	88-05-047	180-110-065	NEW	88-06-002	192-16-065	NEW	88-10-020
180-79-062	NEW	88-05-047	180-115-005	NEW-E	88-05-046	192-18-012	NEW-P	88-13-072
180-79-063	NEW	88-05-047	180-115-005	NEW-P	88-05-052	192-18-012	NEW-E	88-13-073
180-79-065	AMD	88-05-047	180-115-005	NEW	88-08-044	192-28-105	AMD-P	88-07-109
180-79-080	AMD	88-05-047	180-115-010	NEW-E	88-05-046	192-28-105	AMD	88-10-021
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180-79-100	REP	88-05-047	180-115-010	NEW	88-08-044	192-28-110	AMD	88-10-021
180-79-115	AMD	88-05-047	180-115-015	NEW-E	88-05-046	192-28-120	AMD-P	88-07-109
180-79-115	AMD-E	88-12-013	180-115-015	NEW-P	88-05-052	192-28-120	AMD	88-10-021
180-79-116	NEW-E	88-05-045	180-115-015	NEW	88-08-044	192-28-130	NEW-P	88-07-109
180-79-116	NEW-P	88-05-051	180-115-020	NEW-E	88-05-046	192-28-130	NEW	88-10-021
180-79-116	NEW	88-08-046	180-115-020	NEW-P	88-05-052	192-42-005	NEW-P	88-07-110
180-79-117	NEW	88-05-047	180-115-020	NEW	88-08-044	192-42-005	NEW	88-12-051
180-79-120	AMD	88-05-047	180-115-025	NEW-E	88-05-046	192-42-010	NEW-P	88-07-110
180-79-122	NEW	88-05-047	180-115-025	NEW-P	88-05-052	192-42-010	NEW	88-12-051
180-79-125	AMD	88-05-047	180-115-025	NEW	88-08-044	192-42-020	NEW-P	88-07-110
180-79-127	NEW	88-05-047	180-115-030	NEW-E	88-05-046	192-42-020	NEW	88-12-051
180-79-129	NEW-E	88-05-045	180-115-030	NEW-P	88-05-052	192-42-030	NEW-P	88-07-110
180-79-129	NEW-P	88-05-051	180-115-030	NEW	88-08-044	192-42-030	NEW	88-12-051
180-79-129	NEW	88-08-046	180-115-035	NEW-E	88-05-046	192-42-040	NEW-P	88-07-110
180-79-130	REP	88-05-047	180-115-035	NEW-P	88-05-052	192-42-040	NEW	88-12-051
180-79-131	NEW	88-05-047	180-115-035	NEW	88-08-044	192-42-050	NEW-P	88-07-110
180-79-135	REP	88-05-047	180-115-040	NEW-E	88-05-046	192-42-050	NEW	88-12-051
180-79-136	NEW	88-05-047	180-115-040	NEW-P	88-05-052	192-42-060	NEW-P	88-07-110
180-79-140	NEW	88-05-047	180-115-040	NEW	88-08-044	192-42-060	NEW	88-12-051
180-79-150	REP	88-05-047	180-115-045	NEW-E	88-05-046	192-42-070	NEW-P	88-07-110
180-79-155	REP	88-05-047	180-115-045	NEW-P	88-05-052	192-42-070	NEW	88-12-051
180-79-160	REP	88-05-047	180-115-045	NEW	88-08-044	192-42-080	NEW-P	88-07-110
180-79-170	REP	88-05-047	180-115-050	NEW-E	88-05-046	192-42-080	NEW	88-12-051
180-79-175	REP	88-05-047	180-115-050	NEW-P	88-05-052	192-44-010	NEW-P	88-11-091
180-79-180	REP-E	88-12-014	180-115-050	NEW	88-08-044	192-44-020	NEW-P	88-11-091
180-79-185	REP	88-05-047	180-115-055	NEW-E	88-05-046	192-44-030	NEW-P	88-11-091
180-79-190	REP	88-05-047	180-115-055	NEW-P	88-05-052	192-44-040	NEW-P	88-11-091
180-79-195	REP	88-05-047	180-115-055	NEW	88-08-044	192-44-050	NEW-P	88-11-091
180-79-200	REP	88-05-047	180-115-060	NEW-E	88-05-046	192-44-060	NEW-P	88-11-091
180-79-205	REP	88-05-047	180-115-060	NEW-P	88-05-052	192-44-070	NEW-P	88-11-091
180-79-210	REP	88-05-047	180-115-060	NEW	88-08-044	192-44-080	NEW-P	88-11-091
180-79-215	REP	88-05-047	180-115-065	NEW-E	88-05-046	192-44-090	NEW-P	88-11-091
180-79-230	AMD	88-05-047	180-115-065	NEW-P	88-05-052	192-44-100	NEW-P	88-11-091
180-79-245	AMD	88-05-047	180-115-065	NEW	88-08-044	192-44-110	NEW-P	88-11-091
180-79-250	REP	88-05-047	180-115-070	NEW-E	88-05-046	192-44-120	NEW-P	88-11-091
180-80-205	REP	88-05-048	180-115-070	NEW-P	88-05-052	192-44-130	NEW-P	88-11-091
180-80-210	REP	88-05-048	180-115-070	NEW	88-08-044	192-44-140	NEW-P	88-11-091
180-80-215	REP	88-05-048	180-115-075	NEW-E	88-05-046	192-44-150	NEW-P	88-11-091
180-80-280	REP	88-05-048	180-115-075	NEW-P	88-05-052	192-44-160	NEW-P	88-11-091
180-80-285	REP	88-05-048	180-115-075	NEW	88-08-044	192-44-170	NEW-P	88-11-091
180-80-290	REP	88-05-048	180-115-080	NEW-E	88-05-046	192-44-180	NEW-P	88-11-091
180-80-295	REP	88-05-048	180-115-080	NEW-P	88-05-052	192-44-190	NEW-P	88-11-091
180-80-300	REP	88-05-048	180-115-080	NEW	88-08-044	196-04-025	NEW-E	88-05-064
180-80-301	REP	88-05-048	180-115-085	NEW-E	88-05-046	196-04-025	NEW-P	88-07-094
180-80-302	REP	88-05-048	180-115-085	NEW-P	88-05-052	196-04-025	NEW	88-12-044
180-80-303	REP	88-05-048	180-115-085	NEW	88-08-044	196-04-030	AMD-E	88-05-064
180-80-312	REP	88-05-048	180-115-090	NEW-E	88-05-046	196-04-030	AMD-P	88-07-094
180-80-530	REP	88-05-048	180-115-090	NEW-P	88-05-052	196-04-030	AMD	88-12-044
180-80-705	REP	88-05-048	180-115-090	NEW	88-08-044	196-12-010	AMD-E	88-05-064
180-84-015	REP	88-05-049	180-115-095	NEW-E	88-05-046	196-12-010	AMD-P	88-07-094
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180-84-050	REP	88-05-049	180-115-100	NEW-E	88-05-046	196-12-085	AMD-P	88-07-094
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180-84-060	REP	88-05-049	180-115-100	NEW	88-08-044	196-16-007	AMD-E	88-05-064
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180-84-080	REP	88-05-049	180-115-105	NEW-P	88-05-052	196-16-007	AMD	88-12-044
180-84-090	REP	88-05-049	180-115-105	NEW	88-08-044	196-20-010	AMD-E	88-05-064
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180-110-015	NEW	88-06-002	182-12-115	AMD	88-12-034	196-20-010	AMD	88-12-044
180-110-017	NEW	88-06-002	182-12-120	REP-P	88-09-058	204-08-020	AMD	88-03-031
180-110-020	NEW	88-06-002	182-12-120	REP	88-12-034	204-08-030	AMD	88-03-031
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180-110-035	NEW	88-06-002	182-12-165	AMD	88-12-034	204-08-050	AMD	88-03-031
180-110-040	NEW	88-06-002	192-12-019	AMD-P	88-13-127	204-36-010	AMD-P	88-11-012
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204-36-060	AMD-P	88-11-012	212-17-195	AMD	88-08-027	220-47-414	AMD-P	88-10-060
204-36-070	AMD-P	88-11-012	212-17-203	AMD-P	88-03-014	220-47-414	AMD-C	88-13-069
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204-38-050	AMD-P	88-11-013	212-17-225	AMD-P	88-03-014	220-48-01500B	NEW-E	88-07-034
204-40-010	AMD-P	88-11-014	212-17-225	AMD	88-08-027	220-48-01500C	NEW-E	88-09-032
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204-91-020	REP-P	88-13-058	212-17-265	AMD	88-08-027	220-55-065	AMD	88-05-002
204-91-030	REP-P	88-13-058	212-17-270	AMD-P	88-03-014	220-55-065	AMD	88-05-002
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204-91-050	REP-P	88-13-058	212-17-335	AMD-P	88-03-014	220-55-070	AMD	88-05-002
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204-91-080	REP-P	88-13-058	212-17-345	AMD	88-08-027	220-55-07500A	NEW-E	88-02-048
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204-91-130	REP-P	88-13-058	212-17-362	NEW	88-08-027	220-55-090	AMD	88-05-002
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204-91A-150	NEW-P	88-13-058	220-32-03000N	REP-E	88-07-014	220-56-120	AMD	88-10-012
204-91A-160	NEW-P	88-13-058	220-32-03000P	NEW-E	88-07-014	220-56-128	AMD-P	88-03-076
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212-17-085	AMD	88-08-027	220-47-307	AMD-P	88-13-069	220-56-19500H	NEW-E	88-08-002
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220-56-31000H	NEW-E	88-08-002	222-16-050	AMD-P	88-12-033	230-40-200	AMD-P	88-13-062
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220-56-38000B	NEW-E	88-08-002	230-04-199	AMD-P	88-13-062	232-28-21301	REP-P	88-08-083
220-57-130	AMD-P	88-03-075	230-04-201	AMD-P	88-07-061	232-28-21301	REP	88-13-090
220-57-130	AMD	88-10-013	230-04-201	AMD-P	88-09-020	232-28-214	REP-P	88-08-083
220-57-135	AMD-P	88-03-075	230-04-201	AMD	88-11-071	232-28-214	REP	88-13-090
220-57-135	AMD	88-10-013	230-04-201	AMD	88-13-060	232-28-217	NEW-P	88-08-083
220-57-14000G	NEW-E	88-12-046	230-04-260	AMD-P	88-09-020	232-28-217	NEW	88-13-090
220-57-160	AMD-P	88-03-075	230-04-260	AMD-P	88-11-070	232-28-61520	NEW-E	88-03-032
220-57-160	AMD	88-10-013	230-04-455	AMD-P	88-13-062	232-28-616	REP	88-07-065
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220-57-230	AMD-P	88-03-075	230-08-017	NEW	88-13-060	232-28-61623	NEW-E	88-08-006
220-57-230	AMD	88-10-013	230-08-025	AMD-P	88-03-024	232-28-617	NEW	88-07-065
220-57-240	AMD-P	88-03-075	230-08-025	AMD-P	88-09-020	232-28-61701	NEW-E	88-10-010
220-57-240	AMD-P	88-03-076	230-08-025	AMD	88-13-060	232-28-61702	NEW-E	88-11-005
220-57-240	AMD	88-10-013	230-08-130	AMD-P	88-03-024	232-28-709	REP	88-06-006
220-57-270	AMD-P	88-03-075	230-08-130	AMD-P	88-09-020	232-28-710	NEW	88-06-006
220-57-285	AMD-P	88-03-075	230-08-130	AMD	88-13-060	232-28-711	NEW-P	88-05-065
220-57-290	AMD-P	88-03-075	230-08-170	REP-P	88-03-024	232-28-711	NEW-W	88-07-093
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220-57-31500H	NEW-E	88-08-055	230-20-010	AMD-P	88-13-062	232-28-810	NEW-P	88-06-065
220-57-31500H	REP-E	88-12-046	230-20-064	AMD-P	88-03-024	232-28-810	NEW	88-13-035
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220-57-327	AMD-P	88-03-075	230-20-064	AMD	88-07-059	248-18-440	AMD-P	88-13-101
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248-25-045	NEW-P	88-12-029	248-63-085	NEW-P	88-06-092	248-100-011	AMD-P	88-13-103
248-25-050	AMD-P	88-12-029	248-63-085	NEW	88-10-027	248-100-011	AMD-E	88-13-109
248-25-060	AMD-P	88-12-029	248-63-090	REP-P	88-06-092	248-100-016	AMD-P	88-13-103
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248-54-015	AMD	88-05-057	248-63-110	REP	88-10-027	248-100-050	REP	88-07-063
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248-54-035	AMD	88-05-057	248-63-115	NEW	88-10-027	248-100-163	REP	88-07-063
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248-54-055	AMD	88-05-057	248-63-120	REP	88-10-027	248-100-164	REP	88-07-063
248-54-065	AMD	88-05-057	248-63-125	NEW-P	88-06-092	248-100-166	NEW-P	88-03-022
248-54-085	REP	88-05-057	248-63-125	NEW	88-10-027	248-100-166	NEW	88-07-063
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248-54-185	AMD	88-05-057	248-63-160	REP	88-10-027	248-100-201	NEW	88-07-063
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248-54-285	AMD	88-05-057	248-97-020	NEW	88-13-125	248-100-236	AMD	88-07-063
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248-63-020	REP	88-10-027	248-97-070	NEW-P	88-10-005	248-172-202	NEW	88-04-090
248-63-025	NEW-P	88-06-092	248-97-070	NEW	88-13-125	248-172-203	NEW	88-04-090
248-63-025	NEW	88-10-027	248-97-080	NEW-P	88-10-005	248-172-204	NEW	88-04-090
248-63-030	REP-P	88-06-092	248-97-080	NEW	88-13-125	248-172-205	NEW	88-04-090
248-63-030	REP	88-10-027	248-97-090	NEW-P	88-10-005	248-172-206	NEW	88-04-090
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248-63-040	REP-P	88-06-092	248-97-100	NEW	88-13-125	248-172-303	NEW	88-04-090
248-63-040	REP	88-10-027	248-97-110	NEW-P	88-10-005	248-172-304	NEW	88-04-090
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248-63-050	REP	88-10-027	248-97-130	NEW-P	88-10-005	250-20-021	AMD	88-10-001
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250-60-060	AMD-P	88-06-091	251-14-056	AMD-P	88-04-069	275-35-030	AMD	88-13-028
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251-01-445	REP-P	88-02-072	260-34-160	NEW-P	88-13-011	275-38-586	NEW-P	88-07-122
251-01-445	AMD-P	88-06-075	260-34-170	NEW-P	88-06-052	275-38-586	NEW	88-12-087
251-01-445	AMD-C	88-13-112	260-34-170	NEW-P	88-13-011	275-38-600	AMD-P	88-07-122
251-01-450	REP-P	88-02-072	260-34-180	NEW-P	88-06-052	275-38-600	AMD	88-12-087
251-01-455	REP-P	88-02-072	260-34-180	NEW	88-09-033	275-38-605	AMD-P	88-07-122
251-01-455	REP-P	88-06-075	260-70-010	AMD-P	88-13-011	275-38-605	AMD	88-12-087
251-01-455	REP-C	88-13-112	260-70-090	AMD-P	88-13-011	275-38-610	AMD-P	88-07-122
251-04-040	AMD-P	88-12-052	261-40-020	AMD-P	88-10-047	275-38-610	AMD	88-12-087
251-08-100	AMD-P	88-12-052	261-40-020	AMD-E	88-13-043	275-38-615	AMD-P	88-07-122
251-10-170	AMD-P	88-02-072	261-40-020	AMD	88-13-044	275-38-615	AMD	88-12-087
251-10-170	AMD-C	88-06-062	261-40-150	REVIEW	88-03-065	275-38-620	AMD-P	88-07-122
251-10-170	AMD-P	88-06-075	261-40-150	AMD-E	88-08-013	275-38-620	AMD	88-12-087
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251-12-290	AMD-P	88-06-063	261-40-190	NEW-P	88-10-047	275-38-660	AMD	88-12-087
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251-14-020	AMD-C	88-06-062	261-50-035	NEW-P	88-13-052	275-38-667	AMD	88-12-087
251-14-020	AMD-P	88-06-075	261-50-040	AMD-P	88-13-052	275-38-680	AMD-P	88-07-122
251-14-020	AMD-C	88-13-112	261-50-050	AMD-P	88-13-052	275-38-680	AMD	88-12-087
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275-38-695	AMD-P	88-07-122	275-38-955	AMD	88-12-087	296-17-350	AMD-P	88-06-076
275-38-695	AMD	88-12-087	275-38-960	AMD-P	88-07-122	296-17-350	AMD	88-12-065
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275-38-725	AMD	88-12-087	284-74-200	NEW	88-04-054	296-17-52106	NEW-P	88-06-072
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275-38-735	REP	88-12-087	284-91-010	AMD-P	88-08-051	296-17-52107	NEW-P	88-06-072
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296-17-76202	NEW-P	88-06-072	296-45-65025	REP	88-11-021	296-62-07345	REP	88-11-021
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296-17-76203	NEW	88-12-050	296-45-65037	AMD-P	88-06-073	296-62-07383	AMD-P	88-09-074
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296-23-620	REP-C	88-06-036	296-62-07337	NEW-P	88-06-073	296-116-300	AMD	88-05-039
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296-155-434	NEW	88-11-021	304-12-290	AMD	88-07-087	308-51-040	REP-P	88-06-034
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296-305-9902	REP-P	88-09-074	308-40-102	AMD-P	88-09-067	308-53-145	AMD	88-07-047
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308-128F-040	AMD-P	88-08-087	308-195-090	NEW-P	88-03-034	314-36-040	AMD	88-07-025
308-128F-050	AMD-P	88-08-087	308-195-090	NEW	88-10-015	314-36-050	AMD-P	88-04-087
308-128F-070	AMD-P	88-08-087	308-195-100	NEW-P	88-03-034	314-36-050	AMD	88-07-025
308-138-055	AMD-P	88-03-035	308-195-100	NEW	88-10-015	314-36-060	AMD-P	88-04-087
308-138-055	AMD	88-09-030	308-195-110	NEW-P	88-03-034	314-36-060	AMD	88-07-025
308-138-055	AMD-P	88-11-088	308-210-010	NEW-P	88-05-060	314-36-070	AMD-P	88-04-087
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308-138A-020	AMD-P	88-03-035	308-210-030	NEW-P	88-05-060	314-36-090	AMD-P	88-04-087
308-138A-020	AMD	88-09-030	308-210-030	NEW	88-11-025	314-36-090	AMD	88-07-025
308-138A-020	AMD-P	88-11-088	308-210-040	NEW-P	88-05-060	314-36-100	AMD-P	88-04-087
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308-140-030	REP-P	88-11-027	308-210-060	NEW	88-11-025	314-36-120	REP	88-07-025
308-140-040	REP-P	88-11-027	308-220-010	NEW-P	88-05-062	314-36-130	AMD-P	88-04-087
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308-140-250	REP-P	88-11-027	308-220-020	NEW	88-11-079	314-40-040	AMD	88-07-060
308-140-270	REP-P	88-11-027	308-220-030	NEW-P	88-05-062	314-40-080	AMD-P	88-06-055
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308-150-013	AMD	88-08-033	308-220-040	NEW	88-11-079	314-52-114	AMD-E	88-04-061
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308-151-090	AMD	88-08-033	308-220-070	NEW-P	88-05-062	314-64-050	AMD-P	88-11-084
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308-153-030	AMD-P	88-05-041	308-230-010	NEW-P	88-05-063	315-10-030	AMD-P	88-13-122
308-153-030	AMD	88-08-033	308-230-010	NEW	88-11-078	315-11-310	NEW-P	88-02-062
308-156-060	AMD-P	88-05-041	308-230-020	NEW-P	88-05-063	315-11-310	NEW	88-06-031
308-156-060	AMD	88-08-033	308-230-020	NEW	88-11-078	315-11-311	NEW-P	88-02-062
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308-171-103	AMD-P	88-09-048	308-410-030	NEW	88-03-037	315-11-322	NEW	88-09-014
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308-180-210	AMD-P	88-02-061	308-410-060	NEW	88-03-037	315-11-331	NEW-P	88-09-069
308-180-210	AMD	88-07-031	308-410-070	NEW	88-03-037	315-11-331	NEW	88-13-008
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308-180-220	AMD	88-07-031	314-08-080	AMD	88-08-057	315-11-332	NEW	88-13-008
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308-180-260	AMD-P	88-11-026	314-12-038	NEW-P	88-06-054	315-11-342	NEW-P	88-13-122
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308-190-050	NEW	88-11-024	314-20-020	AMD-P	88-12-075	316-02-350	AMD	88-10-019
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308-195-020	NEW	88-10-015	314-22-010	NEW	88-07-090	316-02-820	AMD	88-10-019
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360-08-440	REP	88-06-026	365-180-050	NEW	88-02-042	388-14-205	AMD	88-07-012
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360-08-450	REP	88-06-026	365-180-070	NEW	88-02-042	388-14-210	AMD-E	88-02-056
360-08-460	REP-P	88-03-036	365-180-080	NEW	88-02-042	388-14-210	AMD	88-07-012
360-08-460	REP	88-06-026	365-180-090	NEW	88-02-042	388-14-220	AMD-P	88-02-055
360-08-470	REP-P	88-03-036	372-32-010	AMD-P	88-10-061	388-14-220	AMD-E	88-02-056
360-08-470	REP	88-06-026	372-32-010	AMD	88-13-029	388-14-220	AMD	88-07-012
360-08-480	REP-P	88-03-036	372-36-010	AMD-P	88-10-061	388-14-270	AMD-P	88-02-055
360-08-480	REP	88-06-026	372-36-010	AMD	88-13-029	388-14-270	AMD-E	88-02-056
360-08-490	REP-P	88-03-036	372-36-020	AMD-P	88-10-061	388-14-270	AMD	88-07-012
360-08-490	REP	88-06-026	372-36-020	AMD	88-13-029	388-14-302	AMD-P	88-02-055
360-08-500	REP-P	88-03-036	372-36-030	AMD-P	88-10-061	388-14-302	AMD-E	88-02-056
360-08-500	REP	88-06-026	372-36-030	AMD	88-13-029	388-14-302	AMD	88-07-012
360-08-510	REP-P	88-03-036	372-36-060	AMD-P	88-10-061	388-14-305	AMD-P	88-02-055
360-08-510	REP	88-06-026	372-36-060	AMD	88-13-029	388-14-305	AMD-E	88-02-056
360-10-010	AMD	88-06-060	372-52-010	AMD-P	88-10-061	388-14-305	AMD	88-07-012
360-10-050	AMD	88-06-060	372-52-010	AMD	88-13-029	388-14-310	AMD-P	88-02-055
360-10-060	AMD	88-06-060	372-52-020	AMD-P	88-10-061	388-14-310	AMD-E	88-02-056
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360-13-066	AMD	88-11-007	372-52-030	AMD-P	88-10-061	388-14-320	REP-P	88-02-055
360-16-025	AMD-P	88-11-081	372-52-030	AMD	88-13-029	388-14-320	REP-E	88-02-056
360-16-094	NEW-P	88-11-081	372-52-040	AMD-P	88-10-061	388-14-320	REP	88-07-012
360-16-096	AMD-P	88-11-081	372-52-040	AMD	88-13-029	388-14-325	REP-P	88-02-055
360-18-010	AMD-P	88-11-082	372-52-050	AMD-P	88-10-061	388-14-325	REP-E	88-02-056
360-18-020	AMD-P	88-03-066	372-52-050	AMD	88-13-029	388-14-325	REP	88-07-012
360-18-020	AMD	88-07-011	372-52-060	AMD-P	88-10-061	388-14-370	AMD-P	88-02-055
360-18-020	AMD-E	88-10-033	372-52-060	AMD	88-13-029	388-14-370	AMD-E	88-02-056
360-18-020	AMD-P	88-11-082	372-52-070	AMD-P	88-10-061	388-14-370	AMD	88-07-012
360-18-025	NEW-P	88-03-066	372-52-070	AMD	88-13-029	388-14-385	AMD-P	88-02-055
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360-38-020	NEW-E	88-10-032	372-68-040	AMD-P	88-10-061	388-14-415	AMD-E	88-02-056
360-38-020	NEW-P	88-11-082	372-68-040	AMD	88-13-029	388-14-415	AMD	88-07-012
360-38-030	NEW-E	88-10-032	372-68-050	AMD-P	88-10-061	388-14-420	NEW-P	88-02-055
360-38-030	NEW-P	88-11-082	372-68-050	AMD	88-13-029	388-14-420	NEW-E	88-02-056
360-46-010	AMD-P	88-11-082	372-68-060	AMD-P	88-10-061	388-14-420	NEW	88-07-012
360-46-010	AMD-P	88-13-093	372-68-060	AMD	88-13-029	388-14-425	NEW-P	88-02-055
360-46-020	AMD-P	88-11-082	372-68-070	AMD-P	88-10-061	388-14-425	NEW-E	88-02-056
360-46-020	AMD-P	88-13-093	372-68-070	AMD	88-13-029	388-14-425	NEW	88-07-012
360-46-030	AMD-P	88-11-082	372-68-080	AMD-P	88-10-061	388-14-430	NEW-P	88-02-055
360-46-030	AMD-P	88-13-093	372-68-080	AMD	88-13-029	388-14-430	NEW-E	88-02-056
360-46-040	AMD-P	88-11-082	372-68-090	AMD-P	88-10-061	388-14-430	NEW	88-07-012
360-46-040	AMD-P	88-13-093	372-68-090	AMD	88-13-029	388-15-207	AMD-P	88-02-065
360-46-050	AMD-P	88-11-082	372-68-100	AMD-P	88-10-061	388-15-207	AMD	88-06-088
360-46-050	AMD-P	88-13-093	372-68-100	AMD	88-13-029	388-15-207	AMD-P	88-13-105
360-46-060	AMD-P	88-11-082	383-07-010	NEW-P	88-12-078	388-15-208	AMD-P	88-02-065
360-46-060	AMD-P	88-13-093	383-07-020	NEW-P	88-12-078	388-15-208	AMD	88-06-088
360-46-070	AMD-P	88-11-082	383-07-030	NEW-P	88-12-078	388-15-208	AMD-P	88-13-105
360-46-070	AMD-P	88-13-093	383-07-040	NEW-P	88-12-078	388-15-209	AMD-P	88-02-065
360-46-090	AMD-P	88-11-082	383-07-045	NEW-P	88-12-078	388-15-209	AMD	88-06-088
360-46-090	AMD-P	88-13-093	383-07-050	NEW-P	88-12-078	388-15-209	AMD-P	88-13-105
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388-15-215	AMD	88-11-062	388-40-080	AMD-P	88-10-042	388-57-100	AMD	88-07-055
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388-24-040	AMD	88-09-039	388-40-110	NEW-P	88-10-042	388-77-015	NEW-P	88-09-079
388-24-050	AMD-P	88-04-036	388-40-110	NEW-E	88-10-045	388-77-015	NEW	88-12-093
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388-24-090	AMD	88-07-056	388-49-020	AMD-P	88-12-030	388-77-030	NEW-W	88-08-038
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388-24-125	AMD	88-09-039	388-49-410	AMD-P	88-06-080	388-77-045	NEW-P	88-04-089
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388-37-110	AMD-P	88-12-094	388-57-010	REP	88-07-055	388-77-240	NEW-P	88-09-079
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388-37-130	AMD-P	88-12-094	388-57-015	REP	88-07-055	388-77-245	NEW-P	88-04-089
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388-37-190	AMD-P	88-12-094	388-57-057	AMD	88-07-055	388-77-270	NEW-P	88-09-079
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388-77-505	NEW-W	88-08-038	388-77-780	NEW-P	88-04-089	388-86-050	AMD-P	88-11-043
388-77-510	NEW-P	88-04-089	388-77-780	NEW-W	88-08-038	388-86-050	AMD-E	88-11-044
388-77-510	NEW-W	88-08-038	388-77-810	NEW-P	88-04-089	388-86-051	NEW	88-04-048
388-77-515	NEW-P	88-04-089	388-77-810	NEW-W	88-08-038	388-86-075	AMD-P	88-11-043
388-77-515	NEW-W	88-08-038	388-77-810	NEW-P	88-09-079	388-86-075	AMD-E	88-11-044
388-77-515	NEW-P	88-09-079	388-77-810	NEW	88-12-093	388-86-085	AMD-P	88-03-021
388-77-515	NEW	88-12-093	388-77-815	NEW-P	88-04-089	388-86-085	AMD	88-06-083
388-77-520	NEW-P	88-04-089	388-77-815	NEW-W	88-08-038	388-86-086	NEW-P	88-03-021
388-77-520	NEW-W	88-08-038	388-77-820	NEW-P	88-04-089	388-86-086	NEW	88-06-083
388-77-520	NEW-P	88-09-079	388-77-820	NEW-W	88-08-038	388-86-095	AMD-P	88-11-043
388-77-520	NEW	88-12-093	388-77-820	NEW-P	88-09-079	388-86-095	AMD-E	88-11-044
388-77-525	NEW-P	88-04-089	388-77-820	NEW	88-12-093	388-86-09601	AMD-P	88-11-043
388-77-525	NEW-W	88-08-038	388-77-825	NEW-P	88-04-089	388-86-09601	AMD-E	88-11-044
388-77-525	NEW-P	88-09-079	388-77-825	NEW-W	88-08-038	388-86-098	AMD-P	88-11-043
388-77-525	NEW	88-12-093	388-77-830	NEW-P	88-04-089	388-86-098	AMD-E	88-11-044
388-77-530	NEW-P	88-04-089	388-77-830	NEW-W	88-08-038	388-87-005	AMD-P	88-13-107
388-77-530	NEW-W	88-08-038	388-77-835	NEW-P	88-04-089	388-87-007	AMD-P	88-13-107
388-77-545	NEW-P	88-04-089	388-77-835	NEW-W	88-08-038	388-87-010	AMD-P	88-03-021
388-77-545	NEW-W	88-08-038	388-77-870	NEW-P	88-04-089	388-87-010	AMD	88-06-083
388-77-550	NEW-P	88-04-089	388-77-870	NEW-W	88-08-038	388-87-011	AMD-P	88-08-060
388-77-550	NEW-W	88-08-038	388-77-880	NEW-P	88-04-089	388-87-011	AMD	88-11-061
388-77-555	NEW-P	88-04-089	388-77-880	NEW-W	88-08-038	388-87-013	AMD	88-04-048
388-77-555	NEW-W	88-08-038	388-77-900	NEW-P	88-04-089	388-87-027	AMD-P	88-03-021
388-77-555	NEW-P	88-09-079	388-77-900	NEW-W	88-08-038	388-87-027	AMD	88-06-083
388-77-555	NEW	88-12-093	388-77-900	NEW-P	88-09-079	388-87-035	AMD-P	88-03-021
388-77-560	NEW-P	88-04-089	388-77-900	NEW	88-12-093	388-87-035	AMD	88-06-083
388-77-560	NEW-W	88-08-038	388-77-905	NEW-P	88-04-089	388-87-036	NEW-P	88-03-021
388-77-600	NEW-P	88-04-089	388-77-905	NEW-W	88-08-038	388-87-036	NEW	88-06-083
388-77-600	NEW-W	88-08-038	388-77-915	NEW-P	88-04-089	388-87-070	AMD	88-04-048
388-77-600	NEW-P	88-09-079	388-77-915	NEW-W	88-08-038	388-88-050	AMD	88-04-041
388-77-600	NEW	88-12-093	388-77-920	NEW-P	88-04-089	388-88-101	AMD	88-04-041
388-77-605	NEW-P	88-04-089	388-77-920	NEW-W	88-08-038	388-92-045	AMD-P	88-03-072
388-77-605	NEW-W	88-08-038	388-77-925	NEW-P	88-04-089	388-92-045	AMD	88-06-087
388-77-605	NEW-P	88-09-079	388-77-925	NEW-W	88-08-038	388-95-380	AMD-P	88-03-072
388-77-605	NEW	88-12-093	388-77-930	NEW-P	88-04-089	388-95-380	AMD	88-06-087
388-77-610	NEW-P	88-04-089	388-77-930	NEW-W	88-08-038	388-96-559	AMD-P	88-13-078
388-77-610	NEW-W	88-08-038	388-77-940	NEW-P	88-04-089	388-96-559	AMD-E	88-13-079
388-77-610	NEW-P	88-09-079	388-77-940	NEW-W	88-08-038	388-96-771	NEW-E	88-03-052
388-77-610	NEW	88-12-093	388-77-945	NEW-P	88-04-089	388-96-771	NEW-P	88-03-053
388-77-615	NEW-P	88-04-089	388-77-945	NEW-W	88-08-038	388-96-771	NEW	88-06-085
388-77-615	NEW-W	88-08-038	388-77-975	NEW-P	88-04-089	388-98-005	NEW-E	88-03-051
388-77-615	NEW-P	88-09-079	388-77-975	NEW-W	88-08-038	388-98-005	NEW-P	88-03-054
388-77-615	NEW	88-12-093	388-78-005	NEW-P	88-06-078	388-98-005	NEW	88-06-086
388-77-640	NEW-P	88-04-089	388-78-005	NEW	88-12-088	388-98-010	NEW-E	88-03-051
388-77-640	NEW-W	88-08-038	388-78-010	NEW-P	88-06-078	388-98-010	NEW-P	88-03-054
388-77-700	NEW-P	88-04-089	388-78-010	NEW	88-12-088	388-98-010	NEW	88-06-086
388-77-700	NEW-W	88-08-038	388-78-015	NEW-P	88-06-078	388-98-015	NEW-E	88-03-051

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-98-015	NEW-P	88-03-054	391-65-094	REP	88-12-057	392-121-280	NEW	88-03-013
388-98-015	NEW	88-06-086	391-95-010	AMD-P	88-07-085	392-121-285	NEW	88-03-013
388-98-020	NEW-E	88-03-051	391-95-010	AMD	88-12-058	392-121-290	NEW	88-03-013
388-98-020	NEW-P	88-03-054	391-95-030	AMD-P	88-07-085	392-121-295	NEW	88-03-013
388-98-020	NEW	88-06-086	391-95-030	AMD	88-12-058	392-121-297	NEW	88-03-013
388-99-010	AMD-P	88-06-077	391-95-230	AMD-P	88-07-085	392-121-299	NEW	88-03-013
388-99-010	AMD	88-09-037	391-95-230	AMD	88-12-058	392-121-400	NEW	88-03-013
388-99-020	AMD	88-05-056	392-120-001	NEW-P	88-13-075	392-121-405	NEW	88-03-013
390-05-210	AMD-P	88-11-064	392-120-005	NEW-P	88-13-075	392-121-415	NEW	88-03-013
390-16-223	NEW-P	88-11-064	392-120-010	NEW-P	88-13-075	392-121-420	NEW	88-03-013
390-18-040	AMD-P	88-11-064	392-120-015	NEW-P	88-13-075	392-121-425	NEW	88-03-013
390-20-022	NEW-C	88-04-062	392-120-020	NEW-P	88-13-075	392-121-430	NEW	88-03-013
390-20-022	NEW	88-06-019	392-120-025	NEW-P	88-13-075	392-121-440	NEW	88-03-013
390-20-056	NEW-P	88-04-063	392-121-001	NEW	88-03-013	392-121-442	NEW	88-03-013
390-20-056	NEW-C	88-09-008	392-121-003	NEW	88-03-013	392-121-445	NEW	88-03-013
390-20-105	AMD-P	88-11-064	392-121-007	NEW	88-03-013	392-121-460	NEW	88-03-013
391-08-120	AMD-P	88-07-079	392-121-021	NEW	88-03-013	392-126-003	NEW	88-03-003
391-08-120	AMD	88-12-053	392-121-031	NEW	88-03-013	392-127-003	NEW	88-03-004
391-25-090	AMD-P	88-07-080	392-121-033	NEW	88-03-013	392-130-005	NEW	88-04-001
391-25-090	AMD	88-12-054	392-121-101	REP	88-03-013	392-130-010	NEW	88-04-001
391-25-110	AMD-P	88-07-080	392-121-103	REP	88-03-013	392-130-015	NEW	88-04-001
391-25-110	AMD	88-12-054	392-121-105	REP	88-03-013	392-130-020	NEW	88-04-001
391-25-140	NEW-P	88-07-080	392-121-106	NEW	88-03-013	392-130-025	NEW	88-04-001
391-25-140	NEW	88-12-054	392-121-107	NEW	88-03-013	392-130-030	NEW	88-04-001
391-25-190	AMD-P	88-07-080	392-121-108	NEW	88-03-013	392-130-035	NEW	88-04-001
391-25-190	AMD	88-12-054	392-121-110	REP	88-03-013	392-130-040	NEW	88-04-001
391-25-290	AMD-P	88-07-080	392-121-111	NEW	88-03-013	392-130-045	NEW	88-04-001
391-25-290	AMD	88-12-054	392-121-115	REP	88-03-013	392-130-050	NEW	88-04-001
391-25-390	AMD-P	88-07-080	392-121-120	REP	88-03-013	392-130-055	NEW	88-04-001
391-25-390	AMD	88-12-054	392-121-121	REP	88-03-013	392-130-060	NEW	88-04-001
391-25-470	AMD-P	88-07-080	392-121-122	NEW	88-03-013	392-130-065	NEW	88-04-001
391-25-470	AMD	88-12-054	392-121-123	NEW	88-03-013	392-130-070	NEW	88-04-001
391-35-020	NEW-P	88-07-081	392-121-125	REP	88-03-013	392-130-075	NEW	88-04-001
391-35-020	NEW	88-12-061	392-121-126	REP	88-03-013	392-130-080	NEW	88-04-001
391-35-300	NEW-P	88-07-081	392-121-127	REP	88-03-013	392-130-085	NEW	88-04-001
391-45-013	REP-P	88-07-082	392-121-128	REP	88-03-013	392-130-090	NEW	88-04-001
391-45-013	REP	88-12-056	392-121-129	REP	88-03-013	392-130-095	NEW	88-04-001
391-45-013	REP-E	88-12-062	392-121-130	REP	88-03-013	392-130-100	NEW	88-04-001
391-45-260	NEW-P	88-07-082	392-121-131	REP	88-03-013	392-130-105	NEW	88-04-001
391-45-260	NEW	88-12-056	392-121-133	NEW	88-03-013	392-130-110	NEW	88-04-001
391-55-002	AMD-P	88-07-083	392-121-135	REP	88-03-013	392-130-115	NEW	88-04-001
391-55-002	AMD	88-12-055	392-121-136	NEW	88-03-013	392-130-120	NEW	88-04-001
391-55-033	REP-P	88-07-083	392-121-140	REP	88-03-013	392-130-125	NEW	88-04-001
391-55-033	REP	88-12-055	392-121-145	REP	88-03-013	392-130-130	NEW	88-04-001
391-55-033	REP-E	88-12-063	392-121-150	REP	88-03-013	392-130-135	NEW	88-04-001
391-55-071	NEW-P	88-07-083	392-121-155	REP	88-03-013	392-130-140	NEW	88-04-001
391-55-071	NEW	88-12-055	392-121-160	REP	88-03-013	392-130-145	NEW	88-04-001
391-55-071	NEW-E	88-12-064	392-121-161	NEW	88-03-013	392-130-150	NEW	88-04-001
391-55-400	AMD-P	88-07-083	392-121-165	REP	88-03-013	392-130-155	NEW	88-04-001
391-55-400	AMD	88-12-055	392-121-170	REP	88-03-013	392-130-160	NEW	88-04-001
391-55-410	AMD-P	88-07-083	392-121-175	REP	88-03-013	392-130-165	NEW	88-04-001
391-55-410	AMD	88-12-055	392-121-176	REP	88-03-013	392-130-170	NEW	88-04-001
391-55-415	AMD-P	88-07-083	392-121-177	REP	88-03-013	392-130-175	NEW	88-04-001
391-55-415	AMD	88-12-055	392-121-180	REP	88-03-013	392-130-180	NEW	88-04-001
391-55-420	AMD-P	88-07-083	392-121-181	NEW	88-03-013	392-130-185	NEW	88-04-001
391-55-420	AMD	88-12-055	392-121-182	NEW	88-03-013	392-130-190	NEW	88-04-001
391-55-425	AMD-P	88-07-083	392-121-183	NEW	88-03-013	392-130-195	NEW	88-04-001
391-55-425	AMD	88-12-055	392-121-185	REP	88-03-013	392-130-200	NEW	88-04-001
391-55-430	AMD-P	88-07-083	392-121-186	REP	88-03-013	392-130-205	NEW	88-04-001
391-55-430	AMD	88-12-055	392-121-190	REP	88-03-013	392-139-001	AMD	88-03-007
391-55-435	AMD-P	88-07-083	392-121-195	REP	88-03-013	392-139-005	AMD	88-03-007
391-55-435	AMD	88-12-055	392-121-200	NEW	88-03-013	392-139-007	NEW	88-03-007
391-55-440	AMD-P	88-07-083	392-121-205	NEW	88-03-013	392-139-010	REP	88-03-007
391-55-440	AMD	88-12-055	392-121-210	NEW	88-03-013	392-139-016	REP	88-03-007
391-55-445	AMD-P	88-07-083	392-121-215	NEW	88-03-013	392-139-017	REP	88-03-007
391-55-445	AMD	88-12-055	392-121-220	NEW	88-03-013	392-139-018	REP	88-03-007
391-55-450	AMD-P	88-07-083	392-121-225	NEW	88-03-013	392-139-021	REP	88-03-007
391-55-450	AMD	88-12-055	392-121-245	NEW	88-03-013	392-139-022	REP	88-03-007
391-55-455	AMD-P	88-07-083	392-121-250	NEW	88-03-013	392-139-026	REP	88-03-007
391-55-455	AMD	88-12-055	392-121-255	NEW	88-03-013	392-139-031	REP	88-03-007
391-55-505	REP-P	88-07-083	392-121-257	NEW	88-03-013	392-139-036	REP	88-03-007
391-55-505	REP	88-12-055	392-121-260	NEW	88-03-013	392-139-037	REP	88-03-007
391-65-050	AMD-P	88-07-084	392-121-265	NEW	88-03-013	392-139-038	REP	88-03-007
391-65-050	AMD	88-12-057	392-121-267	NEW	88-03-013	392-139-050	NEW	88-03-007
391-65-074	REP-P	88-07-084	392-121-268	NEW	88-03-013	392-139-051	NEW	88-03-007
391-65-074	REP	88-12-057	392-121-270	NEW	88-03-013	392-139-052	NEW	88-03-007
391-65-094	REP-P	88-07-084	392-121-272	NEW	88-03-013	392-139-055	NEW	88-03-007

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392-164-325	NEW-P	88-07-113	392-168-190	NEW	88-09-042	392-310-010	NEW	88-06-042
392-164-325	NEW	88-13-089	392-171-761	REP-P	88-07-112	392-310-015	NEW-P	88-03-073
392-164-330	NEW-P	88-07-113	392-171-761	AMD-P	88-12-016	392-310-015	NEW-E	88-04-002
392-164-330	NEW	88-13-089	392-171-766	REP-P	88-07-112	392-310-015	NEW	88-06-042
392-164-335	NEW-P	88-07-113	392-171-766	REP	88-12-017	392-310-020	NEW-P	88-03-073
392-164-335	NEW	88-13-089	392-171-771	REP-P	88-07-112	392-310-020	NEW-E	88-04-002
392-164-340	NEW-P	88-07-113	392-171-771	REP	88-12-017	392-310-020	NEW	88-06-042
392-164-340	NEW	88-13-089	392-171-776	REP-P	88-07-112	392-310-025	NEW-P	88-03-073
392-164-345	NEW-P	88-07-113	392-171-776	REP	88-12-017	392-310-025	NEW-E	88-04-002
392-164-345	NEW	88-13-089	392-171-781	REP-P	88-07-112	392-310-025	NEW	88-06-042
392-164-350	NEW-P	88-07-113	392-171-781	REP	88-12-017	392-315-005	NEW	88-09-044
392-164-350	NEW	88-13-089	392-195-010	AMD	88-03-006	392-315-010	NEW	88-09-044
392-164-355	NEW-P	88-07-113	392-195-015	AMD	88-03-006	392-315-015	NEW	88-09-044
392-164-355	NEW	88-13-089	392-220-005	NEW-P	88-03-011	392-315-020	NEW	88-09-044
392-164-360	NEW-P	88-07-113	392-220-005	NEW-E	88-03-012	392-315-025	NEW	88-09-044
392-164-360	NEW	88-13-089	392-220-010	NEW-P	88-03-011	392-315-030	NEW	88-09-044
392-164-365	NEW-P	88-07-113	392-220-010	NEW-E	88-03-012	392-315-035	NEW	88-09-044
392-164-365	NEW	88-13-089	392-220-015	NEW-P	88-03-011	392-315-040	NEW	88-09-044
392-164-370	NEW-P	88-07-113	392-220-015	NEW-E	88-03-012	392-315-045	NEW	88-09-044
392-164-370	NEW	88-13-089	392-220-020	NEW-P	88-03-011	392-315-050	NEW	88-09-044
392-164-375	NEW-P	88-07-113	392-220-020	NEW-E	88-03-012	392-315-055	NEW	88-09-044
392-164-375	NEW	88-13-089	392-220-025	NEW-P	88-03-011	392-315-060	NEW	88-09-044
392-164-380	NEW-P	88-07-113	392-220-025	NEW-E	88-03-012	392-315-065	NEW	88-09-044
392-164-380	NEW	88-13-089	392-220-030	NEW-P	88-03-011	392-315-070	NEW	88-09-044
392-164-385	NEW-P	88-07-113	392-220-030	NEW-E	88-03-012	392-315-075	NEW	88-09-044
392-164-385	NEW	88-13-089	392-220-035	NEW-P	88-03-011	392-315-080	NEW	88-09-044
392-164-390	NEW-P	88-07-113	392-220-035	NEW-E	88-03-012	392-315-085	NEW	88-09-044
392-164-390	NEW	88-13-089	392-220-040	NEW-P	88-03-011	392-315-090	NEW	88-09-044
392-164-395	NEW-P	88-07-113	392-220-040	NEW-E	88-03-012	392-315-095	NEW	88-09-044
392-164-400	NEW	88-13-089	392-220-045	NEW-P	88-03-011	392-315-100	NEW	88-09-044
392-164-400	NEW	88-13-089	392-220-045	NEW-E	88-03-012	392-315-105	NEW	88-09-044
392-164-405	NEW-P	88-07-113	392-220-050	NEW-P	88-03-011	392-315-110	NEW	88-09-044
392-164-405	NEW	88-13-089	392-220-050	NEW-E	88-03-012	392-315-115	NEW	88-09-044
392-164-410	NEW-P	88-07-113	392-220-055	NEW-P	88-03-011	392-315-120	NEW	88-09-044
392-164-410	NEW	88-13-089	392-220-055	NEW-E	88-03-012	392-315-125	NEW	88-09-044
392-164-415	NEW-P	88-07-113	392-220-060	NEW-P	88-03-011	392-315-130	NEW	88-09-044
392-164-415	NEW	88-13-089	392-220-060	NEW-E	88-03-012	392-315-135	NEW	88-09-044
392-168	AMD-P	88-06-094	392-220-065	NEW-P	88-03-011	392-315-140	NEW	88-09-044
392-168	AMD	88-09-042	392-220-065	NEW-E	88-03-012	392-315-145	NEW	88-09-044
392-168-005	REP-P	88-06-094	392-220-070	NEW-P	88-03-011	392-315-150	NEW	88-09-044
392-168-005	REP	88-09-042	392-220-070	NEW-E	88-03-012	392-315-155	NEW	88-09-044
392-168-105	NEW-P	88-06-094	392-220-075	NEW-P	88-03-011	392-315-160	NEW	88-09-044
392-168-105	NEW	88-09-042	392-220-075	NEW-E	88-03-012	392-315-165	NEW	88-09-044
392-168-110	NEW-P	88-06-094	392-220-080	NEW-P	88-03-011	399-30-040	AMD-P	88-06-051
392-168-110	NEW	88-09-042	392-220-080	NEW-E	88-03-012	399-30-040	AMD	88-10-009
392-168-115	NEW-P	88-06-094	392-220-085	NEW-P	88-03-011	399-30-042	NEW-P	88-13-023
392-168-115	NEW	88-09-042	392-220-085	NEW-E	88-03-012	399-30-042	NEW-E	88-13-024
392-168-120	NEW-P	88-06-094	392-220-090	NEW-P	88-03-011	400-12	NEW-C	88-04-023
392-168-120	NEW	88-09-042	392-220-090	NEW-E	88-03-012	400-12-100	NEW	88-06-053
392-168-125	NEW-P	88-06-094	392-220-095	NEW-P	88-03-011	400-12-110	NEW	88-06-053
392-168-125	NEW	88-09-042	392-220-095	NEW-E	88-03-012	400-12-120	NEW	88-06-053
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392-168-130	NEW	88-09-042	392-220-100	NEW-E	88-03-012	400-12-210	NEW	88-06-053
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