

# Washington State Register

MARCH 1, 1989

OLYMPIA, WASHINGTON

ISSUE 89-05



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## CITATION

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

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of March 1989 pursuant to RCW 19.52.020 is thirteen point zero four percent (13.04%).

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

The maximum allowable retail installment contract service charge applicable for calendar year 1989 pursuant to RCW 63.14.130(1)(a) is thirteen and one-half percent (13.50%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is fourteen and one-half percent (14.50%) for the first calendar quarter of 1989.

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# WASHINGTON STATE REGISTER

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

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

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

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

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

### 3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

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

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

### 5. EFFECTIVE DATE OF RULES

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

### 6. EDITORIAL CORRECTIONS

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

### 7. INDEX AND TABLES

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

1988 – 1989

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Action Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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88-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
88-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
88-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
88-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
88-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
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89-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1990

<sup>1</sup>All 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.

<sup>2</sup>A 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.

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

**WSR 89-04-054**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Health)**

[Filed February 1, 1989]

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 nursing homes, amending chapter 248-14 WAC;

that the agency will at 10:00 a.m., Tuesday, March 21, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 22, 1989.

The authority under which these rules are proposed is RCW 18.51.070 and 74.42.620.

The specific statute these rules are intended to implement is chapters 18.51 and 74.42 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 7, 1989. The meeting site is in a location which is barrier free.

Dated: February 1, 1989  
 By: Leslie F. James, Director  
 Administrative Services

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Re: WAC 248-14-001, 248-14-090, 248-14-235, 248-14-247, 248-14-285 and 248-14-300.

**Purpose of the Rule Change:** To clarify regulatory requirements, expand resident rights, and improve the delivery of services to nursing home residents.

**Reasons These Rules are Necessary:** To comply with the provisions of OBRA 87, implement RCW 18.51.530 and update the regulations in light of improved technology in dialysis services.

**Statutory Authority:** RCW 18.51.070 and 74.42.620.

**Summary of the Rule Changes:** WAC 248-14-001 adds definitions of "change of ownership," "dialysis helper," and "end stage renal disease"; redefines "kidney center" and "nursing home"; and deletes the definition "hemodialysis"; WAC 248-14-090 clarifies who is responsible for notifying the department when there is a

change of ownership; WAC 248-14-235 requires administrators or their designees to be available at specified times; requires that administrators advise residents of changes in administrators, directors of nursing services, and changes of ownership of the nursing home; requires administrators in Medicaid certified nursing homes to protect residents' rights to apply for payments; and requires residents' families to be allowed to meet in the nursing home; WAC 248-14-247 establishes a resident's right to safe and adequate care; expands a resident's right to information about rights, responsibilities, available services, and how to submit complaints; establishes a resident's right to choose a personal attending physician; establishes a resident's right to notice of a change in room or roommate; requires residents to be sufficiently oriented and prepared for a transfer or discharge; expands a resident's right to manage his or her financial affairs; and establishes a resident's right to notice of a change of ownership; WAC 248-14-285 clarifies requirements for drug orders and drug administration; and WAC 248-14-300 deletes many requirements for dialysis services in nursing homes; requires all residents receiving dialysis in nursing homes to be patients of a kidney center; specifies who may administer dialysis in a nursing home; and specifies conditions under which dialysis may be administered in a nursing home, including required services and activities.

**Person Responsible for Drafting, Implementation and Enforcement of the Rule:** Cathy Wiggins, Director, Nursing Home Services, AASA, phone 753-4465, mailstop HB-11.

**Person or Organization Other than DSHS who Proposed These Rules:** None.

These rules are in part necessary to implement OBRA 87 and RCW 18.51.530.

#### AMENDATORY SECTION (Amending Order 2271, filed 8/15/85)

WAC 248-14-001 DEFINITIONS. (1) All adjectives and adverbs such as adequate, approved, immediately, qualified, reasonable, reputable, satisfactory, sufficient, or suitable, used in these nursing home regulations to qualify a requirement shall be as determined by the department with the advice and guidance of the nursing home advisory council and the state board of health.

(2) "Activity director" ((=)) means an employee responsible for the development, implementation, and maintenance of a program for residents intended to provide activities to meet the residents' needs and interests.

(3) "Alterations" ((=)) means physical, mechanical, or electrical changes made to existing facilities except for painting or repair.

(4) "Ambulatory person" ((=)) means a person, who, unaided by another person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs.

(5) "Attending physician" ((=)) means the doctor responsible for a particular person's total medical care.

(6) "Authorized practitioner" ((=)) means a certified registered nurse under chapter 18.88 RCW when authorized by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, or a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners.

(7) "Bathing facility" ((=)) means a bathtub or shower.

(8) "Berm" ((=)) means a bank of earth piled against a wall.

(9) "Change of ownership" means a change in the individual or legal organization responsible for the daily operation of a nursing home.

(a) Events which change ownership include, but are not limited to, the following:

(i) The form of legal organization of the licensee is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Title to the nursing home business enterprise is transferred by the licensee to another party;

(iii) Where the licensee is a partnership, any event occurs which dissolves the partnership;

(iv) Where the licensee 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; or

(v) Any other event occurs which results in a change of operating entity.

(b) Ownership does not change when the following, without more, occur:

(i) A party contracts with the licensee to manage the enterprise as the licensee's agent, i.e., subject to the licensee's general approval of daily operating decisions;

(ii) If the licensee is a corporation, some or all of its stock is transferred; or

(iii) The real property or personal property assets associated with the nursing home change ownership or are leased, or a lease of them is terminated, without a change of operating entity.

(10) "Citation" ((=)) means the finding written by a surveyor on an official state and/or federal statement of deficiencies form following a full survey, post survey, or complaint investigation.

((+0)) (11) "Contact with animals" ((=)) means close proximity to animals to allow for close observation, interaction, handling, or petting achieved by either animals being brought into the nursing home on a regular basis or animals being allowed to live on the nursing home premises.

((+1)) (12) "Department" ((=)) means the state department of social and health services.

((+2)) (13) "Dialysis" ((=)) means the process of separating crystalloids and colloids in solution by means of the crystalloids and colloids unequal diffusion through a natural or artificial, semipermeable membrane.

(a) "Acute dialysis" ((=)) means hemodialysis or peritoneal dialysis in the treatment of a person with renal failure for a period of time during which it is medically determined whether renal function may be restored or the failure is irreversible.

(b) "~~((Hemodialysis))~~ Dialysis helper" ((=~~Dialysis of the blood by means of an "artificial kidney" through which blood is circulated on one side of a semipermeable membrane while the other side is bathed by a salt solution. The accumulated toxic products diffuse out of the blood into the salt solution.~~))

(c) "~~Maintenance dialysis"~~—Recurrent hemodialysis or peritoneal dialysis in the long-term treatment of a person with chronic, irreversible renal failure of such severity that other medical management will not support life.

(d) "~~Peritoneal dialysis"~~—Dialysis of the blood by inserting a tube into a person's abdomen and instilling a sterile salt solution into the peritoneal cavity. Accumulated toxic products diffuse out of the blood through the semipermeable membrane of the peritoneum into the salt solution. After a period of time for diffusion, the solution is allowed to drain from the peritoneal cavity.

(e) "~~Self-dialysis"~~—Carrying out dialysis on oneself, assuming primary responsibility for the dialysis procedure whether or not one has assistance.

(f) "~~Self-dialysis training"~~—A program of patient education where a patient is taught how to perform self-dialysis safely and effectively and to care for dialysis equipment and supplies)) means a health care assistant trained by a kidney center under RCW 18.135.060.

((+3)) (14) "Dialysis room" ((=)) means a room where a patient undergoes dialysis.

((+4)) (15) "Dietetic service supervisor" ((=)) means a person who:

(a) Is a dietitian; or

(b) Has completed or is enrolled with a set date of completion in a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or

(c) Has completed or is enrolled with a set date of completion in a state-approved training program providing ninety or more hours of classroom instruction in food service supervision, and has experience in a health care institution.

((+5)) (16) "Dietitian" ((=)) means a person who is eligible for registration by the commission on dietetic registration of the American Dietetic Association based on the 1982 criteria for registration. A person not meeting this definition but employed in that capacity by a

nursing home or homes on or before the effective date of this regulation will be deemed to meet the requirement of WAC 248-14-230(5). This grandfather clause is only effective so long as the:

(a) Person continues employment with the same nursing home or homes; and

(b) Nursing home has no serious deficiencies in dietary services.

((+6)) (17) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or any supplement to any of the listed publications.

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man.

(c) "Drug administration" ((=)) means the direct application of a drug by injection, inhalation, ingestion, or any other means to the body of a resident.

(d) "Drug dispensing" ((=)) means an act entailing the interpretation of an order for a drug or biological and, pursuant to the order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological to a residential care unit.

(e) "Legend drug" ((=)) means a drug bearing the legend, "caution, federal law prohibits dispensing without a prescription."

((+7)) (18) "Drug facility" ((=)) means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

((+8)) (19) "End stage renal disease (ESRD)" means the stage of renal impairment, virtually always irreversible and permanent, requiring dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life.

(20) "Facilities" ((=)) means a room or area and/or equipment to serve one or more specific functions.

((+9)) (21) "Grade" ((=)) means the level of ground adjacent to the building floor level measured at required windows. The ground must be level or slope downward for a distance of at least ten feet from the wall of the building. From there the ground may slope upward not greater than an average of one foot vertical to two feet horizontal within a distance of eighteen feet from the building.

((20)) (22) "Immediate supervision" ((=)) means on-site supervision of one or more persons.

((21)) (23) "Kidney center" ((=~~A health care facility designed, equipped, staffed, organized, and administered to provide the following services:~~))

(a) Medical, social, and psychological evaluation, and selection of persons eligible for maintenance dialysis or kidney transplantation by a formal review body;

(b) Dialysis;

(c) Kidney transplantation for patients with chronic renal failure, either directly or by appropriate referral where this form of therapy is medically indicated;

(d) Training program for physicians, nurses, technicians, and members of other disciplines involved in the care and treatment of persons with chronic renal failure receiving dialysis;

(e) Self-dialysis training program for patients;

(f) Evaluation of situations or facilities and assistance in planning necessary alterations and installations to ensure safe and adequate facilities for maintenance dialysis;

(g) An organized system where patients undergoing dialysis at home or in a nursing home or other satellite facility procure the supplies and equipment necessary to safe and efficient administration of dialysis;

(h) Continued medical management and surveillance of care of patients receiving maintenance dialysis at home or in a nursing home or other satellite facility by means of outpatient clinic services and a continuing program of review, consultation, and training;

(i) An in-hospital dialysis program providing the full gamut of services for diagnosis and treatment of persons with chronic renal disease. The in-hospital services may be provided by means of an association or affiliation with an in-hospital dialysis program)) means a hospital-based or independent dialysis facility, as defined and certified by the federal government, to provide dialysis and related services and provide services as specified in WAC 248-30-090.

((22)) (24) "Lavatory" ((=)) means a handwashing sink.

((23)) (25) "Licensed nurse" ((=)) means either a registered nurse or a licensed practical nurse.

(a) "Licensed practical nurse" ((=)) means a person duly licensed under the provisions of the Licensed Practical Nurse Act of the state of Washington, chapter 18.78 RCW.

(b) "Registered nurse" ((=)) means a person duly licensed under the provisions of the law regulating the practice of registered nursing in the state of Washington, chapter 18.88 RCW.

((24)) (26) "New construction" (~~shall include any of~~) means the following, when the preliminary plans have not been reviewed and accepted at the time of adoption of these regulations:

- (a) New buildings to be used as a nursing home;
- (b) Additions to buildings used as a nursing home;
- (c) Conversions of existing buildings including previously licensed nursing homes; and
- (d) Alterations.

((25)) (27) "Nursing care" ((=)) means services designed to maintain or promote achievement of optimal independent function and health status planned, supervised, and evaluated by a registered nurse in the context of an overall individual plan of care.

((26)) (28) "Nursing home" ((=)) means any home, place, or institution operating or maintaining facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more residents not related by blood or marriage to the operator, who, by reason of illness or infirmity, are unable to properly care for themselves. Convalescent and chronic care may include, but not be limited to, any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. Nothing in this definition shall be construed to include facilities precluded by RCW 18.51.010 and 18.51.170. Licensed nursing home beds shall not be licensed for any other purpose or use specifically regulated under state law.

((27)) (29) "Nursing services" ((=)) means an organized department under the direction of a registered nurse, the members of which provide nursing care.

((28)) (30) "Outpatient service" ((=)) means any service provided to a nonresident of the nursing home.

((29)) (31) "Patient" ((=)) means a person receiving preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative health-related services under professional direction.

(a) "Inpatient" ((=)) means a resident receiving services with board and room in a nursing home on a continuous twenty-four-hour-a-day basis.

(b) "Outpatient" ((=)) means a nonresident of the nursing home receiving services at a nursing home not providing him or her these services with room and board on a continuous twenty-four-hour-a-day basis.

(c) "Residents requiring skilled nursing care" ((=)) means residents whose conditions, needs, and/or services are of such complexity and sophistication so as to require the frequent or continuous observation and intervention of a registered nurse, and the supervision of a licensed physician. These residents require ongoing assessments of physiological and/or psychological needs, and the development and implementation of a comprehensive plan of care involving interdisciplinary planning input and coordination. Resident needs include ongoing evaluations, care plan revisions, and the teaching necessary to provide for residents whose condition is unstable and/or complex.

(d) "Residents requiring intermediate nursing care" ((=)) means residents whose physiological and psychological functioning is stable, but require individually planned treatment and services under the daily direction of a registered nurse or a licensed nurse with registered nurse consultation as provided by exemption and the supervision of a licensed physician. The program is directed toward maintenance of maximum independence and return to the community whenever possible. The program includes an established treatment regimen involving more than supervision, assistance with personal care, and protection.

(e) "Residents requiring care for mental retardation or related conditions" ((=)) means residents found eligible by the division of developmental disabilities and requiring health care services (~~in accord with~~) under subsection ((29)) (31)(c) or (d) of this section, and are in need of a comprehensive habilitative and/or developmental program incorporated into a twenty-four hour overall program plan.

((30)) (32) "Peninsular (or island) bathtub" ((=)) means a bathtub having sufficient clearances around both sides and one end to accommodate residents, equipment, and attendants.

((31)) (33) "Pharmacist" ((=)) means a person duly licensed by the Washington state board of pharmacy under the provisions of chapter 18.64 RCW.

((32)) (34) "Pharmacy" ((=)) means a place where the practice of pharmacy is conducted, properly licensed under the provisions of chapter 18.64 RCW.

((33)) (35) "Physician's assistant" ((=)) means a person acting as an extender for a designated physician and under a plan of utilization approved by the board of medical examiners or the board of osteopathic medicine and surgery and is registered under the provisions of the law regulating the practice of physician's assistant in the state of Washington, chapters 18.57A or 18.71A RCW.

((34)) (36) "Practitioner" ((=)) means a physician under chapter 18.71 RCW; an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW; a dentist under chapter 18.32 RCW; a podiatrist under chapter 18.22 RCW; a certified registered nurse under chapter 18.88 RCW as authorized by the board of nursing; an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners; a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners; or a pharmacist under chapter 18.64 RCW.

((35)) (37) "Resident" ((=)) means an inpatient.

((36)) (38) "Residential care unit" ((=)) means a separate, physical, and functional unit including resident rooms, toilets, bathing facilities, and basic service facilities as identified in WAC 248-14-120 (2)(a).

((37)) (39) "Respiratory isolation" ((=)) means a procedure for the prevention of transmission of pathogenic organisms by means of droplets and droplet nuclei coughed, sneezed, or breathed into the environment.

((38)) (40) "Respite care" ((=)) means services provided to an inpatient admitted to a nursing home for a period not to exceed fourteen consecutive days, for the purposes of providing temporary relief for families or others providing care for disabled persons.

((39)) (41) "Responsible party" ((=)) means a legally responsible person to whom the rights of a client have legally devolved.

((40)) (42) "Supervision" ((=)) means the process of overseeing performance while having the responsibility and authority to guide or direct and critically evaluate.

((41)) (43) "Toilet fixture" ((=)) means a bowl-shaped plumbing fixture fitted with a seat and a device for flushing the bowl with water.

((42)) (44) "Toilet room" ((=)) means a room containing at least one toilet fixture.

((43)) (45) "Unit-dose" ((=)) means the ordered amount of a drug in a dosage form ready for administration to a particular person.

((44)) (46) "Unit-dose drug distribution system" ((=)) means a system of drug dispensing and control characterized by the dispensing of the majority of drugs in unit doses and for most drugs, not more than a forty-eight hour supply of doses is available at the residential care unit at any time.

((45)) (47) "Usable floor space" ((=)) excludes areas taken up by passage door swings, closets, wardrobes, portable lockers, and toilet rooms.

#### AMENDATORY SECTION (Amending Order 2460, filed 1/13/87)

WAC 248-14-090 CHANGE OF OWNERSHIP. (1) When a change of a nursing home ownership is contemplated, the ((owner/ operator (seller))) current operator and the prospective ((buyer)) operator shall each notify the department at least sixty days prior to the proposed date of transfer.

(2) Notification shall be in writing and shall contain the following information:

(a) Name of the present ((owner)) operator and ((buyer)) prospective operator.

(b) Name and address of the nursing home being transferred.

(c) Date of proposed transfer.

(d) Kind of transfer, i.e., sale, lease, rental, etc.

(3) The possession or ownership of a nursing home shall not be transferred until the transferee has been notified by the department that the transferee's application for a license has been approved.

(4) Nothing in this section shall relieve a person proposing to acquire a nursing home of the responsibility to meet applicable certificate of need requirements under chapter 70.38 RCW and chapter 248-19 WAC, and requirements under Section 1122 of the Social Security Act.

AMENDATORY SECTION (Amending Order 2427, filed 9/22/86)

WAC 248-14-235 ADMINISTRATOR. (1) ~~((There))~~ The nursing home shall (be) have a licensed administrator available either full or part time ~~((, who plans, organizes, directs, and is responsible for))~~.

(a) The administrator is responsible for planning, organizing, and directing the overall management of the nursing home.

(b) The administrator shall designate in writing the person having the authority and responsibility to act on his or her behalf in the administrator's absence.

(c) The administrator or the administrator's designee shall be available during normal business hours which includes the time between 9:00 A.M. and 4:30 P.M., Monday through Friday, except legal holidays.

(d) The nursing home shall provide the nursing home residents and the department with the name of the new administrator and director of nursing services at the time of any change of administrator or director of nursing services.

(2) The administrator shall ensure:

(a) An organizational chart of the facility ((showing)) is kept current and shows:

(i) Major operating programs,

(ii) Staff divisions,

(iii) Supervisory and administrative personnel, and ((their))

(iv) Staff lines of authority, responsibility, and communication ((is kept current. The person having the authority and responsibility to act on behalf of the administrator in his or her absence is designated and available during normal business hours)).

(b) Appropriate personnel are trained and assisted to do purchase, supply, and property control functions.

(c) Consultants submit recommendations ((by consultants are submitted)) in writing to the administrator ((and are considered)) for consideration.

~~((2))~~ (d) Only those individuals ((shall be admitted)) whose needs can be met shall be admitted. Residents' needs may be met by the facility, the facility cooperating with community resources, or with other providers of care affiliated or under contract with the facility.

~~((3))~~ The administrator shall ensure:

~~((a))~~ (e) The health-related services are delivered as necessary by appropriately qualified staff and consultants and in accord with facility policies and procedures and accepted standards of practice.

~~((b))~~ (f) The ((enforcement of)) rules and regulations are enforced relative to safety and accident prevention and to the protection of personal and property rights.

~~((4))~~ (g) Every case or suspected case of a reportable disease, as defined in chapter 248-100 WAC, ((shall be)) is reported to the local health officer.

~~((5))~~ (h) Physical plant alterations or changes in physical plant utilization effecting compliance with other regulations are submitted to the department for ((prior)) approval prior to implementation.

~~((6))~~ (i) A copy of each citation for a violation of nursing home regulations ((shall be)) is prominently posted until the violation is corrected, as determined by the department, or for a maximum of one hundred twenty days.

~~((7))~~ (j) All cases of suspected abuse or neglect ((shall be)) are reported to the department or the law enforcement agency.

(k) The procedure for the reporting of resident abuse ((shall be)) is kept prominently posted in the nursing home.

~~((8))~~ (l) Any event ((that requires)) requiring or ((may require)) potentially requiring the evacuation of all or part of the nursing home's residents to another address ((of all or part of the nursing home's residents shall be)) is reported immediately to the licensing agency of the department.

~~((9))~~ (m) All residents ((shall be)) are tested within three days of admission for tuberculosis by skin testing by the Mantoux method with purified protein derivative (PPD) ((within three days of admission)), except that if there is documentation of a significant Mantoux test (ten or more millimeters induration) in the past or a documented history of adequately treated tuberculosis, no further skin testing is necessary.

~~((a))~~ (i) Staff shall evaluate residents with reactions of ten or more millimeters induration within forty-eight to seventy-two hours after administration of the antigen ((shall be evaluated)) for symptoms of tuberculosis (i.e., weight loss, fever, productive cough, dwindles). Residents with positive symptoms shall receive a chest x-ray within thirty days of the skin test.

~~((b))~~ (ii) Staff shall administer a second skin test, within one to three weeks after the first test, to residents thirty-five years of age or

older ((with)) who have reactions of less than ten millimeters induration within forty-eight to seventy-two hours after administration of the antigen ((shall have a second skin test within one to three weeks after the first test)), unless there is documentation of a skin test within the preceding six months.

~~((c))~~ Nursing homes (iii) The administrator shall ((develop)) ensure policies and procedures are developed for the appropriate administration of the tuberculin skin test. Requests for waivers from the skin testing requirement for individual residents shall be directed along with supporting medical data to the tuberculosis control program, health services division, department of social and health services. The department will decide whether the waiver should be granted and will notify the requesting individual accordingly. Any resident granted a waiver from the tuberculin skin test shall have an examination for tuberculosis as directed by the state tuberculosis control officer.

~~((d))~~ (iv) The nursing home shall retain a record of findings ((shall be retained)) as part of the permanent health record.

~~((e))~~ (v) Additional testing will be required only as deemed necessary by the local health department for contact investigation.

~~((f))~~ Nursing homes shall begin skin testing all new admissions within thirty days of the effective date of this regulation.

(g) Nursing homes shall test all nursing home patients. Within ninety days of the effective date of this regulation; (vi) All nursing home residents shall have recorded in their permanent health record, within twenty-eight days following admission, either:

(A) A significant reaction to a Mantoux test with PPD ((;)); or

(B) Two nonsignificant reactions to tests administered from one week to six months apart; or

(C) A waiver from tuberculin skin testing granted by the department, and the results of the examination for tuberculosis.

(n) Each resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible person are notified separately and in writing whenever there will be a change of ownership or a change in the operating or managing entity of the nursing home.

(i) The notification must occur at least sixty days before the effective date of the change.

(ii) The notification shall:

(A) Include the name, address, and telephone number of the department's survey zone manager; and

(B) State that comments regarding the change may be made to the department's survey zone manager.

(iii) If the proposed new owner or operating or managing entity is a corporation, the notification shall include the names of all the corporation's officers and the registered agent in Washington.

(iv) If the proposed new owner or operating or managing entity is a partnership, the notification shall include the names of all the general partners.

(v) The administrator is not required to give residents a sixty-day advance notice of:

(A) The appointment of a receiver to operate the nursing home; or

(B) Changes in administrator, director of nursing services, or other salaried or hourly paid management employees.

(o) A nursing home certified to participate in the Title XIX Medicaid program:

(i) Does not require individuals residing in, or applying to reside in, the nursing home to waive their rights to Medicaid benefits;

(ii) Does not require oral or written assurances that individuals residing in, or applying to reside in, the nursing home:

(A) Are not eligible for Medicaid benefits; or

(B) Will not apply for Medicaid benefits.

(iii) Does not require a third party to personally guarantee payment to the nursing home as a condition of:

(A) Admitting an individual to the nursing home; or

(B) A resident continuing to stay in the nursing home.

The nursing home may require a third party who has legal access to a resident's income or available resources to sign a contract, without incurring personal liability, to provide payment from the resident's income or available resources to the nursing home for the resident's care.

(iv) Informs, in writing, prospective residents and guardians, family members, or other third parties present, before or at the time of admission, that a third party may not be required to personally guarantee payment to the nursing home, as specified under subsection (o)(iii) of this section.

(v) Prominently displays in the nursing home information about how residents may contact the local community services office of the department to apply for Medicaid benefits.



(p) Residents' families are allowed to meet with other residents' families in the nursing home regarding the care and services provided by the nursing home.

AMENDATORY SECTION (Amending Order 1872, filed 9/1/82)

WAC 248-14-247 RESIDENTS' RIGHTS. ((Written)) The nursing home shall protect and promote resident rights. The nursing home shall write and implement policies and procedures ((shall be implemented regarding)) ensuring residents have the following rights ((for each resident)):

(1) Right to safe and adequate care. The nursing home shall provide each resident safe and adequate care in a clean and comfortable environment and free from verbal, sexual, physical, or mental abuse;

(2) Right to information about the nursing home.

(a) The nursing home shall fully inform each resident ((or his or her legally delegated representative shall be fully informed, before or at the time of admission, of his or her)) and, as appropriate, the resident's legal guardian, next of kin, or other responsible party of the resident's rights and responsibilities and ((of)) all rules governing resident conduct. The nursing home shall provide this information:

(i) Orally and in writing;

(ii) Before or at the time of admission; and

(iii) Annually during the resident's stay.

(b) ((H)) The nursing home shall inform each resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party, in a timely manner, of changes in policies on residents' rights and responsibilities and rules governing conduct ((are amended, each resident shall be informed of the changes)).

(c) Each ((resident or responsible party)) individual notified shall acknowledge in writing receipt of the information and any amendments to the information.

(d) The nursing home shall fully inform each resident ((shall be fully informed in writing)) and, as appropriate, the resident's legal guardian, next of kin, or other responsible party of all services available in the home and of the charges for these services, including any other services not paid for by Medicaid or not included in the home's basic rate per day. ((2)) The nursing home shall provide this information:

(i) Orally and in writing;

(ii) Before or at the time of admission;

(iii) Annually during a resident's stay; and

(iv) As changes occur.

(e) Upon a resident's request, the nursing home shall provide the resident with a copy for examination of the most recent survey of the nursing home and any plan of correction in effect.

(3) Right to information about the resident's medical condition and control of the decisions affecting his or her treatment ((= each resident or responsible party shall)):

(a) ((Be fully informed by)) Each resident has the right to choose a personal attending physician;

(b) A physician, or ((his or her)) the physician's designee, shall fully inform each resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party;

(i) Of ((his or her)) the resident's health and medical condition unless the physician documents informing the resident is medically contraindicated ((and)) or the resident ((does)) has directed the physician to not ((want to be informed)) inform the resident; ((b) Be given)) and

(ii) In advance about care and treatment and any changes in care or treatment that affect the resident's well-being.

(c) The nursing home shall ensure each resident has control over the ((opportunity and be encouraged to participate in planning his or her)) decisions regarding the resident's total care and medical treatment;

((c) Be given)) (d) Each resident has a ((qualified opportunity)) right to refuse treatment; and

((d)) (e) The nursing home shall obtain from each participating resident ((shall provide)) an informed written consent before ((participating in)) conducting experimental research ((and)) or treatment.

((3)) (4) Right to notice of transfer ((and)) or discharge. ((Each resident))

(a) The nursing home shall provide the resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party with timely notice consistent with facility policy before the room or roommate of the resident is changed.

(b) The nursing home shall ((be transferred)) not transfer or ((discharged only)) discharge a resident from the nursing home except for:

((a)) (i) Medical reasons; ((his or her)) or

(ii) The resident's welfare or the welfare of the other residents; or

(iii) Nonpayment except as prohibited by the Medicaid program; or

(iv) The resident's request; or

(v) The resident's condition has improved sufficiently so the resident no longer needs the services provided by the nursing home.

((b) Internal transfers are conducted, except in emergencies, with prior notification of the resident and responsible person, and consistent with facility policies)) (c) When a transfer or discharge is necessary, the nursing home shall provide sufficient preparation and orientation to residents to ensure a safe and orderly transfer or discharge from the nursing home. The nursing home shall notify the resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party thirty days prior to a proposed transfer or discharge of the resident from the nursing home, except:

(i) When the resident requests the transfer or discharge;

(ii) When an immediate threat to the resident's life or health, or that of others, is present;

(iii) When the nursing home's license is suspended or revoked;

(iv) When the nursing home is ordered into receivership;

(v) When the Title XIX funds are no longer available because of decertification, or termination, or nonrenewal of the provider's Medicaid contract;

(vi) When the resident's condition has improved sufficiently to allow a more immediate transfer or discharge and the resident concurs with the transfer or discharge.

The nursing home shall provide as much advanced notice as possible whenever the above exceptions to the thirty-day advance notice require more immediate relocation.

((4) Exercising)) (5) Right to exercise rights. ((Each resident shall be:))

(a) ((Encouraged and assisted)) The nursing home shall encourage and assist each resident to exercise his or her rights as a resident and as a citizen; ((and))

(b) ((Encouraged)) The nursing home shall provide each resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party with written procedures explaining:

(i) How to appeal a decision by the nursing home to transfer or discharge a resident or change a resident's room or roommate; and

(ii) How to submit complaints or recommendations concerning the policies and services of the home to:

(A) Nursing home staff ((or to outside representatives of the resident's choice or both;)) and administration;

(B) The state and local long-term care ombudsman;

(C) The nursing home complaint resolution unit in the department.

(c) The nursing home shall provide this information:

(i) Orally and in writing;

(ii) Before or at the time of admission; and

(iii) Annually during the resident's stay.

(d) The nursing home shall keep the resident free from restraint, interference, coercion, discrimination, or reprisal for submitting complaints or recommendations.

((5)) (6) Right to management of financial affairs. The nursing home shall allow each resident or, as appropriate, the resident's legal designee to manage the resident's financial affairs. The nursing home shall offer to manage each ((resident shall be offered management of his or her)) resident's personal financial affairs. If a resident requests assistance from the nursing home in managing his or her personal financial affairs:

(a) The resident or, as appropriate, the resident's legal designee shall make the request ((shall be)) in writing; and

(b) The nursing home shall comply with the recordkeeping requirements of RCW 74.42.130 ((shall be met)), Individual Financial Records.

(c) The resident or, as appropriate, the resident's legal designee has the right to revoke in writing any such request or authorization at any time, including any authorization to spend money from the resident's trust fund.

((6)) (7) Right to privacy.

(a) The nursing home shall treat each resident ((shall be treated)) with consideration, respect, and full recognition of ((his or her)) the resident's dignity and individuality.

(b) ((Each resident)) The nursing home shall ((be given privacy during)) provide treatment and care of each resident's personal needs in a private area free from exposure to persons not involved in providing the care.

(c) The nursing home shall treat each resident's records confidentially, including information in an automatic data bank, (shall be treated confidentially).

(d) Each resident or, as appropriate, the resident's legal designee shall give written consent before information may be released from (his or her) the resident's record to someone not otherwise authorized by law to receive said information.

(e) If both husband and wife are residents of the nursing home, the nursing home shall provide the husband and wife (shall be permitted) the opportunity to share a room, if mutually (requested) agreeable, unless medically contraindicated and documented.

~~((7))~~ (8) Right to not be required to work. (No) The nursing home shall not require any resident (may be required) to perform services for the home, except as appropriately goal-related in the plan of care.

~~((8))~~ (9) Freedom of association) (9) Right to freely associate, communicate, and (correspondence) correspond with others. The nursing home shall permit each resident (shall) to:

(a) Communicate, telephonically or otherwise, associate, and meet (privately), in private, with individuals of (his or her) the resident's choice, unless this infringes upon the rights of another resident; and

(b) Send and receive personal mail unopened.

~~((9))~~ (10) Right to participate in activities. (Each resident) The nursing home shall (be encouraged) encourage each resident to participate in social, religious, and community (group) activities.

~~((10))~~ (11) Right to maintain personal possessions. The nursing home shall permit each resident (may elect) to retain and use (his or her) the resident's personal possessions and clothing as space and regulations permit. (Methods) The nursing home shall (be established) write and (implemented) implement procedures for safeguarding personal property.

~~((11))~~ (12) Delegation of rights and responsibilities) (12) Rights if not competent.

(a) The nursing home shall (have written) write and implement policies and procedures (providing) for delegating the resident's rights and responsibilities (of a resident are delegated) to the resident's legal guardian (on his or her behalf) if the resident is adjudicated incompetent under state law (chapter 11.88 RCW).

(b) The facility shall (have written) write and implement policies and procedures (to initiate recommendation of) for recommending guardianship proceedings when the (patient) resident appears to be incapable of understanding his or her rights and responsibilities.

(13) Right to notification of change of ownership or operating or managing entity. The nursing home shall notify each resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party in writing, under WAC 248-14-235 (2)(n), at least sixty days before the effective date of any of the following changes in the nursing home in which he or she resides, except when the change is the result of an order for receivership:

(a) Change of ownership.

(b) Change in operating entity, or

(c) Change in management.

#### AMENDATORY SECTION (Amending Order 1872, filed 9/1/82)

WAC 248-14-285 PHARMACEUTICAL SERVICES. (1) A staff pharmacist or consultant pharmacist shall be responsible for coordinating pharmaceutical services including:

(a) Provision of pharmaceutical services, evaluations, and recommendations to the administrative staff.

(b) On-site reviews to ensure drug handling and utilization procedures are carried out in conformance with recognized standards of practice.

(c) Regular reviews of each resident's therapy to screen for potential or existing drug therapy problems and documenting recommendations.

(d) Provision of drug information to the staff and physicians as needed.

(e) Planning and participation in the staff development program.

(f) Consultation with other departments regarding resident care services.

(2) Administration of pharmaceutical services.

(a) ~~((There))~~ The nursing home shall (be provision for) ensure there is timely delivery of drugs and biologicals.

(b) The nursing home shall ensure safe and effective drug therapy, distribution, control, and use (shall be ensured).

(c) If drugs are maintained for emergency use, the nursing home and supplying pharmacy shall establish a system for drug control and accountability (shall be established).

(d) The nursing home shall record medication errors and adverse drug reactions (shall be recorded) and (reported) report them immediately to the practitioner who ordered the drug.

(3) Security and storage of drugs.

(a) The nursing home shall store drugs (shall be stored) under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

(b) ~~((Drugs))~~ The nursing home shall (be stored) store drugs in locked cabinets, rooms, or carts accessible only to personnel authorized to administer or dispense drugs.

(c) The nursing home shall ensure outdated, unapproved, contaminated, deteriorated, adulterated, or recalled drugs (shall) are not (be) available for use.

(d) If a supplemental dose kit within a unit dose drug distribution system is provided, the (supplemental dose kit) nursing home and supplying pharmacy must comply with WAC 360-13-030.

(4) ~~((Drugs))~~ The nursing home shall (be) ensure drugs are:

(a) Clearly labeled ((to ensure the right medication is));

(b) Administered to the right resident;

(c) Administered in the correct dosage; and

(d) Administered within correct times.

(5) ~~((Records of drug))~~ The nursing home shall accurately document the disposition (shall provide accurate documentation) of drugs, including:

(a) Administration;

(b) Destruction;

(c) Release;

(d) Retention; and

(e) Return to the pharmacy.

(6) Special requirements for Schedule II and III controlled substances:

(a) ~~((Storage))~~ Nursing homes shall (be) store Schedule II and III controlled substances separately keyed from other controlled substances except in unit dose drug distribution systems.

(b) Except in unit dose drug distribution systems, (there) the nursing home shall (be) maintain a bound book or books with consecutively numbered pages, (where) and record therein a complete record of receipt and disposition ((is maintained)) of Schedule II and III controlled substances.

(c) ~~((Discrepancies))~~ Any staff member discovering any discrepancy between the count of drugs and the record shall (be documented) document the discrepancy and (reported) report it immediately to (the) his or her supervisor. ((Discrepancies)) The nursing home shall report any discrepancy not resolved (shall be reported) to the pharmacist and the Washington state board of pharmacy.

(7) Drug orders.

(a) Staff shall only administer drugs on the written or verbal order of a practitioner. The prescribing practitioner shall sign verbal orders in a timely manner.

(b) Only a licensed nurse, pharmacist, or physician shall receive a drug order.

(c) The nursing home shall ensure all drug orders are time limited.

(8) Drug administration.

(a) Staff shall follow procedures providing for the safe handling and administration of drugs to residents as ordered.

(i) ~~((licensed nurses))~~ an individual authorized by state law to administer drugs may do so.

(ii) ~~((The resident))~~ The individual administering a drug shall (be identified) identify the resident prior to administration.

~~((b))~~ (iii) The individual administering drugs shall identify all drugs (shall be identified) up to the point of administration.

~~((c))~~ (iv) The individual administering drugs shall (be prepared) personally prepare the drugs for administration immediately prior to (the drugs) administration ((and administered by the same person preparing the drugs)).

~~((d))~~ (Drug administration) (b) The individual administering the drugs shall (be documented) document, as soon as possible after the act of administration ((and shall include)), the following:

(i) Verification of administration (:) ;

(ii) Reasons for ordered doses not taken (:) ; and

(iii) Reasons for administration of and response to drugs given on an as needed basis (PRN).

~~((c))~~ Drug orders shall be time limited and received only by a licensed nurse, pharmacist or physician and administered only on the written or verbal order of a practitioner. Verbal orders shall be signed by the prescribing practitioner in a timely manner.

~~(f))~~ (c) The nursing home shall provide a program for self-administration of medication ~~((shall be encouraged))~~ and ~~((the program))~~ shall ~~((provide evidence of))~~ document the following:

- (i) Assessment of the resident's capabilities~~((:));~~
- (ii) Instructions for administration~~((:));~~
- (iii) Monitoring of progress and compliance with orders~~((:));~~ and
- (iv) Safe storage of drugs.

#### AMENDATORY SECTION (Amending Order 1455, filed 11/15/79)

WAC 248-14-300 DIALYSIS SERVICES. Any nursing home in which dialysis is performed shall be in compliance with the following additional requirements.

(1) ~~((Dialysis in a nursing home shall be limited to persons whom a kidney center has accepted as patients and for whom the kidney center has made arrangements for admission to the nursing home for maintenance dialysis on either an outpatient or inpatient basis.~~

~~(a) A dialysis patient shall have undergone medical evaluation and initiation of his maintenance dialysis program by a kidney center prior to his admission to the nursing home.~~

~~(b) A self-dialysis patient shall have received self-dialysis training at a kidney center prior to being accepted as a patient by a nursing home.~~

~~(c) Acute or sporadic dialysis shall not be administered in a nursing home.) All residents of a nursing home receiving dialysis shall be patients of a kidney center. The nursing home and the kidney center shall jointly decide where the dialysis will be administered.~~

~~(2) ((A dialysis patient who has an infectious condition, an acute complication or acute illness or an injury requiring medical care and treatment on an inpatient basis shall not be admitted or retained as a patient.) Acute dialysis shall not be administered in a nursing home.~~

~~(3) No one other than a dialysis helper or a licensed nurse from the kidney center may administer dialysis in a nursing home. A registered nurse from the nursing home, having completed an in-service class approved by the kidney center, shall be present to supervise the care whenever a dialysis helper is administering dialysis.~~

~~(4) The nursing home shall ((have in effect)) ensure a current written agreement is in effect with each kidney center responsible for the ((medical) management and ((surveillance of)) care of ((a)) each patient ((who undergoes)) undergoing dialysis ((within)) in the nursing home. The agreement shall delineate the functions, responsibilities, and services of both the kidney center and the nursing home((, shall provide reasonable assurance of compliance with pertinent rules and regulations of the board and shall be dated and signed by individuals authorized to execute such an agreement on behalf of the kidney center and the nursing home)).~~

~~((+)) (5) The nursing home shall ensure the following services ((shall be)) and activities are provided by or under the direction and supervision of a kidney center in relation to the care and treatment of each dialysis patient:~~

~~(a) Selection ((and)), procurement, and installation of dialysis ((supplies and)) equipment.~~

~~(b) Selection, procurement, and storage of dialysis supplies.~~

~~(c) Specification, procurement, and installation of the purification process for treatment of water used as a diluent in the dialyzing fluid.~~

~~((fe)) (d) Physician's services. ((df)) There shall be a physician, whom the kidney center has designated or approved for handling problems pertaining to ESRD, on call at all times dialysis is being administered.~~

~~(e) Clinical and chemical laboratory services.~~

~~((fe)) (f) Nutritionist's services.~~

~~((ff)) (g) Social ((and psychological supporting)) work services.~~

~~((fg)) (h) Preventive maintenance and emergency servicing of dialysis and water purification equipment.~~

~~((fh)) (i) Certification and continuing education of dialysis helpers and periodic review and updating of ((the)) dialysis helpers' competencies ((of the self-dialysis patient)).~~

~~((fi)) (j) An in-hospital dialysis program for the care and treatment of a ((hemodialysis)) dialysis patient with a complication or acute condition necessitating hospital care.~~

~~((fj)) (k) A program for regular, periodic, on-site review of the nursing home's dialysis facilities((, staff, policies and practices relevant to the care of a dialysis patient. Such a review shall be made at least once every six months. A record of on-site reviews shall be kept on file at the nursing home and shall include the date and the names and titles of the persons making each on-site review.~~

~~(5) There shall be current written policies and procedures and emergency plans and orders pertinent to the care and treatment of patients receiving dialysis. These shall be developed by appropriate representatives of each kidney center responsible for the medical management and surveillance of care of a dialysis patient in cooperation with appropriate representatives of the nursing home administrative, medical and nursing staffs and the staffs of other services in accordance with the need for their involvement in the implementation of given policies and procedures. The policies, procedures and emergency plans shall be applicable to dialysis services in the given nursing home situation, shall be made known and readily available to the nursing home's medical and nursing staffs and other personnel involved in the dialysis services, shall be followed in the care of a dialysis patient, shall be reviewed and revised as necessary to keep them current, and shall be dated and signed by representatives of the nursing home's administrative, medical and nursing staffs and appropriate representatives of the kidney center(s). The written policies, procedures and emergency plans shall include the following:~~

~~(a) Procedures for dialysis and for the use of any special, medical equipment used by nonphysician persons in administering dialysis or emergency care to a dialysis patient. These procedures shall be approved in writing by a physician representative of the kidney center(s).~~

~~(b) Policies and procedures for the selection, procurement, storage, handling, care and control of supplies and equipment for dialysis. These shall specify the functions and responsibilities of the nursing home and the kidney center(s) in relation to dialysis supplies and equipment and be designed to ensure the following:~~

~~(i) Ready availability of dialysis supplies and equipment.~~

~~(ii) Regular inspection and maintenance servicing of equipment to keep it in safe and operable condition. Definite provision shall be made for regular inspection of all electrical equipment in the immediate environment of a patient under-going dialysis as is required by WAC 248-14-300 (17)(d)(ii).~~

~~(iii) Prompt servicing of faulty or inoperable equipment.~~

~~(iv) Anti-microbial processing of supplies and equipment by methods which avoid a residue of injurious chemicals on supply or equipment items and are designed to prevent the transmission of infection through use of supplies and equipment. All items whose surfaces come into contact with blood shall be sterile, disposable items except that a disposable dialyzer and accessory tubing may be reused for the same dialysis patient if, between uses, they are subjected to an anti-microbial process prescribed by the kidney center.~~

~~(v) Storage and handling of supplies and equipment in a place and manner that protects them from contamination prior to use.~~

~~(vi) Prevention of aberrant use of supplies and equipment.~~

~~(c) Policies and procedures which ensure timely exchange of information pertinent to the care of a dialysis patient between the nursing home and the responsible kidney center. These shall include specific provisions for the following:~~

~~(i) Immediate notification of the kidney center or the physician designated by the kidney center by a nurse responsible for supervising the patient's care in the nursing home should the patient present signs or symptoms of an infection, other complication or acute condition.~~

~~(ii) Prompt, written reports from the kidney center to the nursing home on any medical evaluation or treatment of the patient performed by or under the direction and supervision of the kidney center. These shall include a statement of the medical evaluation of the patient's condition, and signed medical orders for any changes in the care and treatment of the dialysis patient.~~

~~(d) Policies and procedures which ensure pertinent data on each dialysis treatment of a patient and observations of the patient's condition are recorded in the patient's clinical record in the nursing home.~~

~~(e) Policies, procedures and medical orders to govern the action to be taken should a dialysis patient present a medical emergency. These shall delineate the circumstances for which particular policies and medical orders are to be followed, provide for a physician to be called as rapidly as possible, and delineate the minimum qualifications or training of persons who may execute particular medical orders.~~

~~A medical order for the administration of a drug or other treatment during a medical emergency shall include: The date of the order; the name of the drug or description of the treatment which includes the name of each drug or other agent; the dosage, concentration or intensity of a drug or other agent; the route or method of administration; where pertinent, the time interval, frequency or duration of administration; and the signature of the physician responsible for the order.~~

~~(f) A written plan for the management and care of any patient receiving dialysis in the event of a fire, electrical power failure, explosion,~~

earthquake or other disaster. The plan shall provide for immediate evacuation of the dialysis patient when indicated and shall ensure provision for continuance of a patient's maintenance dialysis regimen should the nursing home's dialysis facilities be inoperable for a period of time).

(l) A continuing in-service education program for nursing home staff working with a dialysis patient.

(6) ((Prior to or at the time of admission of a dialysis patient on either an inpatient or outpatient basis, the following data shall be available in the nursing home:

(a) Social and identifying data which includes the patient's name, date of birth, Social Security number, marital status, home address, religion and the name, address and telephone number of the patient's next-of-kin or other responsible person;

(b) The name, address and telephone number of the physician responsible for the patient's medical care;

(c) Current medical information which includes a medical history, findings of a physical examination performed within five days of admission to the nursing home, medical diagnosis and a summary of the patient's prior care. These shall be dated and signed by the physician;

(d) A definitive)) The nursing home shall ensure a dialysis treatment plan is developed by ((a physician designated by)) the kidney center. This treatment plan shall be incorporated into the nursing home total plan of care and include specific medical orders ((including any standing orders to be followed in the care of the patient))) for:

(a) Medications,

(b) Treatment, and

(c) Diet ((, and special medical procedures required for the safety and well-being of the particular patient. Medical orders shall be dated and signed by the physician)).

(7) The attending physician and the kidney center shall provide, or direct and supervise, the continuing medical management and surveillance of the care of each dialysis patient ((receiving maintenance dialysis)) in a nursing home ((shall be provided by or under the direction and supervision of a kidney center)).

(8) ((There shall be a physician, whom the kidney center has designated or approved for handling medical problems of the dialysis patient, on-call at all times. A current schedule of the names and telephone numbers of on-call physicians or call service(s) through which on-call physicians can be contacted rapidly, shall be posted in the appropriate nurses' station in the nursing home.

(9) Each person who has responsibility for supervising or assisting in the administration of dialysis or for the care and maintenance of dialysis supplies and equipment shall have been prepared for his respective functions, duties and responsibilities through a planned training program provided by the kidney center or reviewed and approved in writing by an appropriate representative of the kidney center.

(a) For each such person, the kidney center shall provide a written, dated, signed certification which delineates the functions, responsibilities and tasks the person is qualified to assume and specifies which the person may assume independently and which are to be carried out under supervision;

(b) If the kidney center limits the certification of an individual to serving as a dialysis assistant to a given patient, the certification shall also include the full name of the dialysis patient whom the person is qualified to assist;

(c) A continuing education program, provided or approved by the kidney center shall be provided. All persons having a responsibility for dialysis services shall be provided the continuing education and training the kidney center deems necessary for them to maintain and improve relevant knowledge and skills as well as to learn new procedures and techniques pertinent to their respective duties and responsibilities;

(d) For each person who has responsibility for directing, supervising, or assisting in the administration of dialysis or the care and maintenance of dialysis supplies and equipment, there shall be on file in the nursing home a record of his training and continuing education and a copy of his certification by the kidney center.

(10) At all times a patient is undergoing dialysis within the nursing home, a registered nurse, who has completed a training program on dialysis treatment and the care of dialysis supplies and equipment, shall be on duty within the nursing home and responsible for the supervision of the patient's care and treatment and the care of dialysis supplies and equipment. Delegation of functions, responsibilities and tasks involved in dialysis services to other persons shall be in accord with their respective certifications by the kidney center.

(11) A self-dialysis patient shall be assisted as indicated in preparing for and administering self-dialysis. The nurse call signal of a patient undergoing self-dialysis shall be answered immediately.

(12) A self-dialysis patient shall be supervised and assisted in the cleaning and other care of dialysis supplies and equipment following self-dialysis as necessary to ensure that facilities and equipment used in common with other dialysis patients are in a safe condition for subsequent dialysis.

(13) Self-dialysis shall be in accord with the following:

(a) The patient shall have received self-dialysis training at a kidney center prior to his admission to the nursing home as either an inpatient or outpatient;

(b) The patient shall be physically, mentally and emotionally able to administer dialysis to himself;

(c) At any time a self-dialysis patient manifests a significant adverse change in his physical, mental or emotional condition, he shall be seen by the physician and his ability to administer dialysis to himself shall be reviewed together by the physician and a registered nurse member of the nursing home staff who is responsible for the care of dialysis patients. If the review decision is that the patient is to continue self-dialysis, a new, medical order shall be entered in the patient's clinical record, dated and signed by the physician;

(14) Observation and evaluation of each dialysis patient's condition and response to dialysis shall be made by persons competent to recognize and evaluate significant signs and symptoms and take appropriate action. Observations shall be recorded in the patient's clinical record and signed by the person who made them. There shall be timely reporting of significant observations to the kidney center or the responsible physician in accordance with the indicated need for further medical evaluation or medical intervention;

(15) The form (dry or aqueous) and the composition of the dialysis bath concentrate shall conform to the written specifications of the responsible physician designated by the kidney center and shall be obtained from the kidney center or an established vendor approved by the kidney center.

(a) The closures for containers for dialysis bath concentrate shall be designed to prevent contamination or loss of content and preclude accidental or deliberate adulteration;

(b) The labels on containers of dialysis bath concentrate shall include: The name of the preparation, the name and metric weight of each ingredient, the total ionic content, the name and address of the manufacturer, the identifying lot number and the directions for storage;

(16) Water for the dialyzing solution shall be obtained from a potable water source which can maintain a minimum flow of five gallons per minute through a one-half inch pipe;

(a) A water purification system shall be installed and maintained for treatment of water as specified by the kidney center;

(b) A detailed report on any additives to the natural water supply shall be obtained from the water supplier prior to the selection of the water purification system;

(c) An analysis of water from the supply source shall be performed by the kidney center or a laboratory approved by the kidney center prior to the selection of the water purification system, at least once every quarter during the first year of operation of dialysis facilities, and at least annually thereafter. A repeat water analysis shall not be necessary if the kidney center already has laboratory reports on analysis of water obtained from the same water supply source at the required times and intervals;

(d) Copies of the water supplier's reports on additives and laboratory reports on water analyses shall be kept on file in the nursing home as well as the kidney center;

(17) All rooms and areas which are used for dialysis services shall be on the same floor of the nursing home and shall be functionally located in relation to one another to provide for safe and efficient operation of the dialysis service. The location and arrangement of rooms and areas used for dialysis services shall be such as to minimize traffic of patients, visitors and personnel from other services of the nursing home;

(a) Dialysis rooms

(i) Any dialysis room shall be reserved exclusively for use by dialysis patients whenever the nursing home has a dialysis patient (inpatient or outpatient) who uses the room periodically;

(ii) The maximum capacity of any room in which patients are dialyzed shall not exceed four beds;

(iii) Each room in which patients are dialyzed shall open directly from a nursing unit corridor, shall be located to prevent through traffic

and to minimize entrance of odors, noise and other nuisances and shall be an outside room having a clear glass window area of not less than one-eighth of the usable floor area.

(iv) There shall be at least 85 square feet of usable floor space per bed area in each multibed room and 100 square feet of usable floor space per bed area in each one-bed room. Each bed area shall be designed to permit a clearance of four feet on at least one side of the bed. The bed shall be located in the room in such a way that connections may be made to either arm or leg of a patient.

(v) There shall be a lavatory in each multibed room and in each single bed room which does not have a private adjoining toilet which contains a lavatory.

(vi) In each multibed room, there shall be permanently installed cubic curtain tracks or rods with flame-proof curtains which permit enclosure of the area around each bed for visual privacy.

(vii) Each patient bed shall be adjustable and in good repair. Electrically operated beds shall not be used for patients undergoing dialysis.

(viii) There shall be a separate, enclosed closet for each patient bed in each room.

(ix) In each room there shall be a separate drawer or compartment space for the storage of each dialysis patient's underclothing, toilet articles and other personal articles. An individually keyed, locked drawer or compartment is recommended.

(x) For each bed there shall be a reading light and an electrical nurse call signal device, which, when activated, registers by light at the corridor door, the appropriate nurses' station and in other appropriate nursing work areas such as utility rooms.

(xi) At each bed used by a patient during dialysis, there shall be an emergency signal device, located to be within easy reach of a patient undergoing dialysis and designed to activate an audio alarm which can be heard throughout a major section of the nursing home in which nursing personnel are on duty at all times. The emergency audio alarm system for dialysis patients shall be distinct and different from other audio signals or alarm systems in the nursing home so an emergency alarm from a dialysis patient can be identified readily.

(xii) At each bed used for self-dialysis, there shall be a telephone located for use by a patient during dialysis.

(xiii) There shall be properly grounded, single phase electrical circuits of 30 amperes or more as is required by the equipment used. There shall be a minimum of two duplex 110 volt receptacles convenient to each bed.

(xiv) Plumbing for each patient bed area shall be designed to provide a minimum water flow pressure of 40 pounds per square inch with the waste line serving the dialysis equipment designed to prevent back flow and necessary check valves and shut off valves appropriately located in the plumbing system.

(b) There shall be a patient toilet directly accessible from each dialysis room which shall be reserved exclusively for use by dialysis patients whenever the nursing home has a dialysis patient (inpatient or outpatient) who uses the adjoining toilet room periodically.

(i) At each water closet there shall be grab bars and an electrical nurse call signal device which, when activated, registers by light at the corridor door, the appropriate nurses' station and in other appropriate nursing work areas such as utility rooms.

(ii) There shall be specific provision for personnel to gain immediate access to patient toilets should there be an emergency need to gain access to a patient who is in a toilet to which the door is locked. This provision shall be made known to all nursing home personnel.

(c) There shall be an adequate electric power distribution system. This system shall be designed to protect against microshock and fire hazards, and to minimize microshock hazard to a dialysis patient due to a conductive or capacitive path from the patient's body to some grounded object which may be established accidentally or through instrumentation directly connected to the patient.

(i) All electrical equipment connected to or used in caring for a dialysis patient shall be served by one or more single phase electrical circuits of 30 amperes or more as is required by the equipment installed.

(ii) Emergency electrical service shall be provided for dialysis room lighting. The emergency electrical service shall be automatic and not require any manual action to put it into operation after failure of the

primary power distribution system. The emergency power system shall share the same common ground as the primary power distribution system. A separate grounding conductor, sized in accordance with the National Electrical Code, Article 250-95 shall be installed with wiring to all receptacles.

(iii) Each patient bed shall be served by a minimum of two duplex, three wire grounded hospital grade electrical receptacles.

(iv) Wall receptacles that are loose, in poor repair, damaged or inoperative shall be reported immediately and shall not be used until they have been repaired.

(d) The following precautions shall apply not only to dialysis equipment, but also to lights, radios, televisions, call buttons and other electrically operated devices connected to the power line and used in close proximity to a dialysis patient:

(i) Any electrical equipment used in connection with a dialysis patient shall have plugs designed for use in three wire electrical receptacles and shall be plugged into one of those receptacles.

(ii) All electrical equipment including telephones shall be in good repair and be inspected for electrical safety at least once a month by technical personnel qualified to detect leakage currents from equipment or electrical circuitry and determine whether they are properly grounded and performing according to manufacturer's specifications.

(iii) "Cheater" adaptors, multiple outlet adaptors and extension cords shall not be used.

(iv) Use of any electrical equipment shall be discontinued until it can be properly checked and the defect corrected in the event of any of the following conditions: A person has received a shock in connection with its use, the equipment is overheating as evidenced by odor or touch, there is damage to the power cord, plug, insulation or chassis housing, or a cable connector switch, control knob, pilot light or meter is malfunctioning.

(v) The use of nonconductive surfaces on bedside equipment and devices is recommended to the extent reasonably possible.

(vi) A record shall be kept of the dates and findings of inspections of electrical equipment.

(c) There shall be utility and storage facilities which are designed and equipped to provide for the care, handling and storage of supplies and equipment in a manner that ensures segregation of clean and sterile supplies and equipment from those that are contaminated.

(i) There shall be a clean utility room, which serves the dialysis service exclusively, for storage and assembly of clean supplies and small equipment. This room shall contain a work counter, a sink and closed storage units (e.g., shelves, drawers) for clean or sterile supplies and equipment.

(ii) If dialyzers other than disposable dialyzers of a type which have an impervious shell are used, a separate soiled utility room for the cleaning of dialysis equipment shall be provided for the dialysis service. This soiled utility room shall have: A sink with two compartments (each of which is at least 22 inches wide, 22 inches long and 13-1/2 inches deep) mounted in or integral with a work counter of at least three linear feet length on each side of the sink; storage for cleaning agents and chemical disinfectants, and adequate space for waste receptacles and soiled linen hampers. Storage for cleaning agents and chemical disinfectants shall be closed, locked facilities. Only equipment used in a dialysis procedure may be collected or cleaned in this soiled utility room. It shall not be used for the care and handling of other types of patient care equipment.

(iii) If dialyzers of a type, which have an impervious external shell are used exclusively, a separate soiled utility room shall be required only if there is no other soiled utility room on the same floor of the nursing home and convenient to the dialysis service. In this case, the soiled utility room for the dialysis service shall provide handwashing facilities, work counter or cart space for the collection of dirty equipment, and space for soiled linen hampers and waste receptacles.) The dialysis room shall be in compliance with standards established under the Code of Federal regulations, 42 C.F.R. 405.2140, for ESRD facilities. This includes:

- (a) Storage space available for equipment and supplies;
- (b) A telephone at the bedside of each dialysis patient; and
- (c) A mechanical means of summoning additional staff to the dialysis area in the event of a dialysis emergency.

**WSR 89-05-001**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Memorandum—February 1, 1989]

The Interagency Committee for Outdoor Recreation (IAC) will meet March 23-24, 1989, in Tumwater, Washington, at the Tye Motor Inn, Coho Annex, 500 Tye Drive, beginning at 9:00 a.m., Thursday, March 23. The Friday, March 24 date is held in reserve should it be necessary to continue discussion of agenda items.

This is not a funding session of the committee.

**WSR 89-05-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF WILDLIFE**

[Order 379—Filed February 2, 1989]

Be it resolved by the director of the Washington Department of Wildlife, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New	WAC 232-28-61719	Amendment to 1988-90 game fish regulations—Tokul Creek.
Rep	WAC 232-28-61716	Emergency game fishing closure on Tokul Creek.

I, the director of the Washington Department of Wildlife, 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 upon further assessment of the hillside on the eastside of Tokul Creek by Department of Wildlife engineers, it has been determined that a portion of Tokul Creek can be reopened for game fishing with no threat to human safety from potential landslides originally assessed for the Tokul Creek area as a whole.

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

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 February 2, 1989.

By Curt Smitch  
 Director

NEW SECTION

*WAC 232-28-61719 AMENDMENT TO 1988-90 GAME FISH REGULATIONS—TOKUL CREEK. Notwithstanding the provisions of WAC 232-28-617, effective immediately to March 31, 1989, the following game fish regulations will apply to Tokul Creek.*

*TOKUL CREEK, from its mouth to the posted cable, approximately 150 yards upstream from the county road bridge (located just off of 372nd Avenue, S.E.): Dec. 1–Mar. 31 season. TROUT—catch limit—2, min. lgth. 12". This area is CLOSED daily from 5:00 p.m. to 7:00 a.m. This area is CLOSED to all fishing from Apr. 1–Nov. 30.*

*From the posted cable upstream to the intake dam structure at Tokul Creek Hatchery: CLOSED WATERS.*

*From the intake dam structure at Tokul Creek Hatchery upstream to the railroad trestle: Dec. 1–Mar. 31 season. TROUT—catch limit—2, min. lgth. 12". This area is CLOSED daily from 5:00 p.m. to 7:00 a.m. This area is CLOSED to all fishing from Apr. 1–Nov. 30.*

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

**WAC 232-28-61716 EMERGENCY GAME FISHING CLOSURE ON TOKUL CREEK**

**WSR 89-05-003**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Filed February 3, 1989]

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:

Amd	WAC 173-158-030	Definitions.
Amd	WAC 173-158-060	Additional state requirements;

that the agency will at 7:00 p.m., Wednesday, February 15, 1989, in the Tukwila City Hall, Council Chambers, 6200 Southcenter Boulevard, Tukwila, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 7, 1989.

The authority under which these rules are proposed is chapters 43.21 and 34.04 RCW.

The specific statute these rules are intended to implement is RCW 86.16.061.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 22, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-01-109 filed with the code reviser's office on December 21, 1988.

Dated: February 2, 1989  
 By: Fred Olson  
 Deputy Director

**WSR 89-05-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Order 1993—Filed February 6, 1989]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at

Olympia, Washington, the annexed rules relating to the application of restricted use pesticides in Benton County and portions of Franklin and Walla Walla counties in chapter 16-232 WAC.

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 existing limited staff resources are not sufficient to address the public concern regarding the application of pesticides in Benton County. Provisions under this order will allow effective, efficient use of staff resources to provide for the safe application of pesticides while not restricting further use of pesticides. This order is necessary for the rules to remain in effect until formal adoption of rules after a hearing to be held February 22, 1989.

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

This rule is promulgated pursuant to chapters 17.21 and 15.58 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 February 6, 1989.

By C. Alan Pettibone  
Director

#### NEW SECTION

WAC 16-232-405 AREA UNDER ORDER. The area under order shall include:

(1) All lands lying within the boundaries of Benton County.

(2) Portions of Franklin and Walla Walla counties as follows:

Beginning at the Benton-Franklin County line in the vicinity of the northwest corner of Section 1, T10N, R28E; thence east approximately thirteen miles along section lines and a portion of Sagemore Road to the northeast corner of Section 1, T10N, R30E; thence south seven miles to the southeast corner of Section 1, T9N, R30E; thence east four miles along section lines and a portion of the Pasco-Kahlotus Road to the northeast corner of Section 10, T9N, R31E; thence approximately fourteen miles south across the Franklin-Walla Walla County line to the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(3) Within the area under order described in subsection (1) and (2) above are certain lands designated as Sub-area A which have the following descriptions:

(a) All lands lying south of a line beginning at the Yakima-Benton County line and the southwest corner of Section 19, T8N, R24E; thence east one mile along section lines to the southeast corner of Section 19, T8N, R24E; thence north one mile along section lines to the

northeast corner of Section 19, T8N, R24E; thence east seven miles along section lines to the southeast corner of Section 17, T8N, R25E; thence north three miles along section lines to the northeast corner of Section 5, T8N, R25E; thence east two miles along section lines to the southeast corner of Section 34, T9N, R25E; thence north one mile along the section lines to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southeast corner of Section 25, T9N, R25E; thence north one mile along section lines to the northeast corner of Section 25, T9N, R25E; thence east six miles along section lines to the southeast corner of Section 24, T9N, R26E; thence south two miles along section lines to the southwest corner of section 31, T9N, R27E; thence east five and one-half miles more or less along section lines to the K.I.D. Canal; thence southeasterly along the K.I.D. Canal to its confluence with Columbia River.

(b) All lands lying within a line beginning at the southwest corner of Section 18, T13N, R24E; thence east three miles along section lines the southeast corner of Section 16, T13N, R24E; thence south one mile along section lines to the southwest corner of Section 22, T13N, R24E; thence east one-half mile to the Atomic Energy Commission west boundary line; thence easterly and southerly along the Atomic Energy Commission boundary line to the Yakima River; thence southerly along the Yakima River to the south boundary of Section 31, T10N, R27E; thence west eighteen and one-half miles more or less along section lines to the Yakima-Benton County line; thence north along Yakima-Benton County line to the point of origin.

#### NEW SECTION

WAC 16-232-415 RESTRICTED USE PESTICIDES. For purposes of WAC 16-232-405 through WAC 16-232-465, all pesticides are declared to be restricted use pesticides, except those labeled or used only for the following sites or functions:

- (1) Swimming pools and fountains
- (2) Disinfectants
- (3) Cooling tower or industrial system biocides
- (4) Pets or livestock
- (5) Lawns or home gardens
- (6) Use within or around buildings or similar structures (does not include irrigation canals)
- (7) Wood or lumber treatment
- (8) Baits or repellants registered solely for vertebrate pest control
- (9) Seed treatments
- (10) Enclosed food processing systems
- (11) Air conditioners, humidifiers, and heating systems

#### NEW SECTION

WAC 16-232-425 PERMITS. (1) Application of restricted use pesticides as defined in WAC 16-232-415 is prohibited in Sub-area A designated in WAC 16-232-405(3): PROVIDED, That the department may issue written permits for designated applications.

(2) The department may make on-site monitoring of the application by a department representative a condition of any permit. A representative of the department may revoke any such permit at any time, if the representative deems the situation at the application site unsuitable.

(3) No permit shall be issued pursuant to this rule to apply dicamba or phenoxy hormone-type herbicides, unless that permit is consistent with existing department regulations.

(4) Application of chlorsulfuron (such as: Glean, Telar) or metsulfuron methyl (such as: Finesse, Escort) to fallow land or to land during the time between harvest and emergence of the subsequent grain crop above the furrows is prohibited.

#### NEW SECTION

WAC 16-232-435 RECORDKEEPING. (1) No portion of this rule shall relieve any commercial applicator, public operator, private-commercial applicator, or demonstration and research applicator from recordkeeping requirements of WAC 16-228-190.

(2) Persons who apply restricted use pesticides as defined in WAC 16-232-415 shall keep records for each application within the area defined in WAC 16-232-405, which shall include the following information:

(a) Applicator's name, address and name of the individual making the application;

(b) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application records may omit township, range and section.

(c) Year, month, day, and time the pesticide was applied;

(d) Trade name and/or common name of the pesticide applied, and/or EPA registration number for that product;

(e) Direction and estimated velocity of the wind and temperature at the time the pesticide was applied;

(f) Amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the pesticide used;

(g) Specific crop or site to which the pesticide was applied.

(3) If an application of a restricted use pesticide as defined in WAC 16-232-415 is performed by a licensed commercial pesticide applicator within the area defined in WAC 16-232-405, the person in control of the treated land shall keep records which shall include the following information:

(a) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application notices may omit township, range and section;

(b) Year, month, day, and time the pesticide was applied;

(c) Name of the commercial applicator.

(4) All records required by this rule shall be completed and available to the department the same day the pesticide was applied.

(5) All records required by this rule shall be kept for a period of three years from the date of application of

the pesticide to which such records refer. The department shall, upon request in writing, be furnished with a copy of such records forthwith by the person required to keep the records.

#### NEW SECTION

WAC 16-232-445 NOTICE OF INTENT. (1) Application of restricted use pesticides as defined in WAC 16-232-415 is prohibited unless the department is notified of the intent to make the application prior to commencing the actual application. Notice of Intent is not required for application in Sub-area A made under permits as provided in WAC 16-232-425.

(2) Notice of Intent must be made by one of the following:

(a) telephone to the department's pesticide notice recorder;

(b) in person on forms provided by the department at the department's grain inspection office in Pasco;

(c) or under other conditions to be designated by the department.

(3) Notice of Intent shall include the following information:

(a) Name and telephone number of person filing the Notice of Intent.

(b) Applicator's name, address and name of the individual making the application;

(c) Address or location of the land where the pesticide is to be applied, specifying township, range, section: PROVIDED, That right-of-way application records may omit township, range and section;

(d) Year, month, day, and time the pesticide is to be applied;

(e) Crop or site to be treated;

(f) Acreage or area to be treated;

(g) Trade name and/or common name of the pesticide to be applied, and/or EPA registration number for that pesticide.

(4) Application of restricted use pesticides shall not begin prior to the day and time provided in the Notice of Intent. If the application cannot be started or is not completed within twenty-four hours (24 hours) of the day and time stated in the original Notice of Intent, a new Notice of Intent must be made.

(5) Notice of Intent may be made by licensed commercial pesticide applicators on behalf of persons in control of lands to be treated.

(6) Providing the department with Notice of Intent does not replace any of the recordkeeping requirements of WAC 16-232-435, WAC 16-228-190 or other applicable rules;

(7) Nothing in the department's acceptance of a Notice of Intent shall be construed as permitting application of any pesticide in violation of its registered label or other applicable laws and rules.

#### NEW SECTION

WAC 16-232-455 OTHER RULES. Provisions of WAC 16-232-405 through WAC 16-232-465 shall take precedence over all existing, less restrictive rules of the department affecting the application of pesticides in



*Benton, Franklin or Walla Walla Counties. No provision of WAC 16-232-405 through WAC 16-232-465 shall be construed as relieving any requirement of existing rules except those in direct conflict.*

#### NEW SECTION

**WAC 16-232-465 EFFECTIVE DATE.** *The provisions of this order are effective immediately: PROVIDED, That the requirements for a permit for any pesticide application in the affected area shall remain in effect until November 15, 1988. After November 15, 1988, only applications to be made to the lands lying in Sub-area A will require a permit, while all other applications will require Notice of Intent.*

#### **WSR 89-05-005**

#### **NOTICE OF PUBLIC MEETINGS CLEMENCY AND PARDONS BOARD**

[Memorandum—February 1, 1989]

Clemency and Pardons Board meetings shall be held on Friday, March 31, 1989, and thereafter on the second Friday of June, September and December 1989, at 9:00 a.m. in the Governor's Conference Room.

#### **WSR 89-05-006**

#### **PROPOSED RULES SKAGIT VALLEY COLLEGE**

[Filed February 7, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Skagit Valley College intends to adopt, amend, or repeal rules concerning withholding services for outstanding debt, adopting chapter 132D-122 WAC;

that the institution will at 4 o'clock p.m., Tuesday, April 11, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mt. Vernon, WA 98273, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 11, 1989, 7:00 p.m.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 10, 1989.

Dated: February 6, 1989

By: Wendy Bohlke  
Assistant Attorney General

#### **STATEMENT OF PURPOSE**

Title and Number of Rule: Chapter 132D-122 WAC,  
Withholding services for outstanding debt.

Statutory Authority: RCW 28B.50.140 (7)(9).

Specific Statute that Rule is Intended to Implement:  
N/A.

Summary of Rules: Provides a means to withhold services for outstanding debts owed the college by students, former students or employees.

Reasons Supporting the Proposed Rules: Establishes a procedure to withhold services for debts and means of challenging the process.

Agency Personnel Responsible for Drafting: Wendy Bohlke, AAG, 320 BNB, 103 East Holly, Bellingham, WA 98225, 738-2037 scan; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mt. Vernon, WA 98273, 542-1180 scan.

Name of Person Proposing the Rules: Wally Sigmar.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with the federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: N/A.

Chapter 132D-122 WAC

Withholding Services for Outstanding Debts

#### NEW SECTION

**WAC 132D-122-010 POLICY.** If any person, including faculty, staff, student or former student, is indebted to the institution for an outstanding overdue debt, the institution need not provide any further services of any kind to such individual, including but not limited to transmitting files, records, transcripts or other services which have been requested by such person.

#### NEW SECTION

**WAC 132D-122-020 NOTIFICATION.** (1) Upon receiving a request for services where there is an outstanding debt due the institution from the requesting person, the institution shall notify the person by first-class mail that the services will not be provided since there is an outstanding debt due. The person shall be told that until the debt is satisfied, no such services as are requested will be provided. (2) The letter of notification shall also state that the person has a right to a brief adjudicative proceeding before a person designated by the president of the institution. The proceeding must be requested within twenty days of the date of mailing notification of refusal to provide services.

#### NEW SECTION

**WAC 132D-122-030 PROCEDURE FOR BRIEF ADJUDICATIVE PROCEEDING.** Upon receipt of a timely request for a hearing, the person designated by the president shall have the records and files of the institution available for review and shall hold an informal hearing concerning whether the individual in fact owes or owed any outstanding debts to the institution. The hearing must be conducted within ten (10) days of the request for a hearing. After the informal hearing, a decision shall be rendered by the president's designee indicating whether in fact the institution is correct in withholding services for the outstanding debt. If the outstanding debt is owed by the individual involved, no further services shall be provided. Notification of this decision shall be sent to the individual within five (5) days after the hearing. This hearing shall constitute a brief adjudicative proceeding established by the Administrative Procedures Act at RCW 34.05.482-.494.

**WSR 89-05-007****ADOPTED RULES****DEPARTMENT OF INFORMATION SERVICES**

[Order 89-1—Filed February 8, 1989]

I, Nancy Abraham, director of the Department of Information Services, do promulgate and adopt at 1110 South Jefferson, Olympia, WA, the annexed rules relating to access to public records, chapter 143-06 WAC.

This action is taken pursuant to Notice No. WSR 89-01-085 filed with the code reviser on December 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 chapter 42.17 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 February 6, 1989.

By Nancy Abraham  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 143-06-990 APPENDIX A—FORM—REQUEST FOR PUBLIC RECORDS.

**WSR 89-05-008****ADOPTED RULES****DEPARTMENT OF REVENUE**

[Order PT 89-1—Filed February 8, 1989]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to five year average grain price, new section WAC 458-30-261.

This action is taken pursuant to Notice No. WSR 89-01-114 filed with the code reviser on December 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 chapter 84.34 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 84.08.010(2) which directs that the Department of Revenue has authority to implement the provisions of RCW 84.34.065.

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

APPROVED AND ADOPTED January 24, 1989.

By Steven L. Frisch  
Assistant Director

**NEW SECTION**

WAC 458-30-261 FIVE YEAR AVERAGE GRAIN PRICES. (1) The five year average price for wheat for 1989 assessments is \$3.50 per bushel. The five year average price for barley for 1989 assessments is \$97.00 per ton.

**WSR 89-05-009****ADOPTED RULES****DEPARTMENT OF REVENUE**

[Order PT 89-2—Filed February 8, 1989]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to valuation procedures and standards, amending WAC 458-30-260.

This action is taken pursuant to Notice No. WSR 89-01-113 filed with the code reviser on December 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 84.08.010(2) and 84.34.065 which directs that the Department of Revenue has authority to implement the provisions of RCW 84.34.065.

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

APPROVED AND ADOPTED January 27, 1989.

By Steven L. Frisch  
Assistant Director

**AMENDATORY SECTION** (Amending Order PT 88-12, filed 11/15/88)

WAC 458-30-260 VALUATION PROCEDURES AND STANDARDS. The assessor shall use all available information to determine the productive capacity of classified farm and agricultural land. Consideration shall be given to actual production within an area, averaged over not less than the immediate past five years. Farm production information and other related data shall be available to the assessor as provided by the act and this chapter. Reliable statistical sources may also be used. A soil capability analysis may be considered in determining the productive or earning capacity of the land.

In determining the current use value of farm and agricultural land, the assessor shall use the capitalization of income method described in the following subsections of this section.

(1) The net cash rental to be capitalized shall be determined as follows:

(a) The assessor shall use leases of farm land paid on an annual basis, in cash or its equivalent. The land must have been available for lease for a period of at least

three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. If leases do not meet these requirements, they will not be used. The lease payments shall be averaged as follows:

(i) Each annual lease payment, or rent, shall be averaged for the typical crops within that area; and

(ii) The typical cash rental for each year shall be averaged for not less than the last five crop years. A deduction shall be allowed for the customary costs that are paid by the land owner. All costs and expenses shall be averaged over the immediate past five years. If the land is irrigated by a sprinkler system, an amount for the irrigation equipment shall be deducted from the gross cash rent to determine the net rent for the land only. However, such irrigation equipment shall be placed on the assessment roll at its true and fair value.

(b) Should there be an insufficient number of leases available to adequately determine net cash rental, it shall be established by determining:

(i) The landlord's share of the cash value of typical or usual crops grown on land of similar quality. The cash value shall include government subsidies if they are based on the productive capacity of the land. The acreage kept out of production because of these subsidies shall be included in the total acreage valued by capitalization of the income;

(ii) The landlord's share of the standard cost of production will be determined and deducted from his or her share of the cash value established pursuant to this subsection.

The resulting amount shall be averaged for not less than five crop years.

(c) When the land being valued is not in use for commercial agricultural purposes, or where the available information is insufficient to determine an agricultural income, the assessor shall compute a reasonable amount to be capitalized as income, based on the land's estimated productive capacity.

(2) The capitalization rate to be used in valuing land shall be the sum of the following:

(a) An interest rate of 11.18 percent ~~((component to be determined by the department and certified to the assessor on or before January 1st of each year, and shall be comparable to interest rates charged on long-term loans secured by mortgages on farms or agricultural lands averaged over the last five years));~~ plus

(b) a component for property taxes ~~((that shall be determined by dividing the total taxes levied within the county for the year preceding the assessment by the total assessed value of the county.))~~ in the following amounts for each county:

<u>Adams</u>	<u>1.33%</u>	<u>Lewis</u>	<u>1.23%</u>
<u>Asotin</u>	<u>1.50%</u>	<u>Lincoln</u>	<u>1.33%</u>
<u>Benton</u>	<u>1.49%</u>	<u>Mason</u>	<u>1.14%</u>
<u>Chelan</u>	<u>1.38%</u>	<u>Okanogan</u>	<u>1.42%</u>
<u>Clallam</u>	<u>1.17%</u>	<u>Pacific</u>	<u>1.42%</u>
<u>Clark</u>	<u>1.28%</u>	<u>Pend Orielle</u>	<u>1.22%</u>
<u>Columbia</u>	<u>1.14%</u>	<u>Pierce</u>	<u>1.59%</u>
<u>Cowlitz</u>	<u>1.16%</u>	<u>San Juan</u>	<u>0.92%</u>

<u>Douglas</u>	<u>1.31%</u>	<u>Skagit</u>	<u>1.25%</u>
<u>Ferry</u>	<u>0.95%</u>	<u>Skamania</u>	<u>1.37%</u>
<u>Franklin</u>	<u>1.66%</u>	<u>Snohomish</u>	<u>1.22%</u>
<u>Garfield</u>	<u>1.70%</u>	<u>Spokane</u>	<u>1.45%</u>
<u>Grant</u>	<u>1.36%</u>	<u>Stevens</u>	<u>1.15%</u>
<u>Grays Harbor</u>	<u>1.36%</u>	<u>Thurston</u>	<u>1.54%</u>
<u>Island</u>	<u>0.96%</u>	<u>Wahkiakum</u>	<u>1.22%</u>
<u>Jefferson</u>	<u>1.07%</u>	<u>Walla Walla</u>	<u>1.29%</u>
<u>King</u>	<u>1.33%</u>	<u>Whatcom</u>	<u>1.24%</u>
<u>Kitsap</u>	<u>1.19%</u>	<u>Whitman</u>	<u>1.56%</u>
<u>Kittitas</u>	<u>1.15%</u>	<u>Yakima</u>	<u>1.27%</u>
<u>Klickitat</u>	<u>1.34%</u>		

(3) The value of the agricultural land shall be the net cash rental of the land divided by the capitalization rate determined in subsection (2) of this section.

(4) The department's determination of the interest rate established in subsection (2)(a) of this section may be appealed to the state board of tax appeals not later than thirty days after the notice has been issued by:

(a) An owner of a parcel(s) of land classified as farm and agricultural; or

(b) The assessor of any county containing parcels of land that are classified as farm and agricultural.

(5) Land presently used as a residential building site shall be valued at its true and fair value as a homesite in accordance with WAC 458-12-301. However, land that migratory farm labor accommodations, bunkhouses, storeyards, barns, machine sheds, and similar type structures are located upon shall not be considered as a residential building site.

(6) Except for a parcel(s) of land classified under a rating system, a parcel of land classified as open space shall have an assessed value not less than what it would have if classified as farm and agricultural land.

(7) Timber land shall be valued according to chapter 84.33 RCW.

**WSR 89-05-010**

**ADOPTED RULES**

**DEPARTMENT OF REVENUE**

[Order PT 89-3—Filed February 8, 1989]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to rates of inflation, amending WAC 458-30-590.

This action is taken pursuant to Notice No. WSR 89-01-115 filed with the code reviser on December 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 chapter 84.34 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 84.34.360 which directs that the Department of Revenue has authority to implement the provisions of RCW 84.34.300 through 84.34.380.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.  
 APPROVED AND ADOPTED January 24, 1989.

By Steven L. Frisch  
 Assistant Director

AMENDATORY SECTION (Amending Order PT 88-4, filed 3/3/88)

WAC 458-30-590 RATES OF INFLATION. The rates of inflation to be used for calculating the interest as required by WAC 458-30-550 are as follows:

1976 5. <del>((7))</del> <u>6</u>	1980 ( <del>((10.7))</del> <u>13.5</u>	1984 ( <del>((3.8))</del> <u>4.3</u>
1977 6.5	1981 ( <del>((9.2))</del> <u>10.3</u>	1985 3.5
1978 ( <del>((7.3))</del> <u>7.6</u>	1982 ( <del>((5.7))</del> <u>6.2</u>	1986 ( <del>((2.1))</del> <u>1.9</u>
1979 ( <del>((9.2))</del> <u>11.3</u>	1983 ( <del>((4.1))</del> <u>3.2</u>	1987 ( <del>((4.0))</del> <u>3.7</u>
		1988 <u>4.1</u>

**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 89-05-011**

**ATTORNEY GENERAL OPINION**

**Cite as: AGO 1989 No. 2**

[February 3, 1989]

**LAW ENFORCEMENT OFFICERS—CIVIL SERVICE—REGULATIONS—CRIMINAL JUSTICE TRAINING COMMISSION**

WAC 139-05-200 is unenforceable insofar as it purports to require commissioned law enforcement personnel employed before January 1, 1978, to complete a 440-hour basic law enforcement academy if they experience an interruption of employment in excess of 90 days.

Requested by:

Mr. James C. Scott  
 Executive Director  
 Washington State Criminal  
 Justice Training Commission  
 Mail Stop: PW-11  
 Olympia, Washington 98504

**WSR 89-05-012**

**PROPOSED RULES**

**SKAGIT VALLEY COLLEGE**

[Filed February 9, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Skagit Valley College,

Community College District No. 4, intends to adopt, amend, or repeal rules concerning petition for promulgation, amendment or repeal of rule, repealing chapter 132D-12 WAC;

that the institution will at 4 o'clock p.m., Tuesday, April 11, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mt. Vernon, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 11, 1989, 7 p.m.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 10, 1989.

Dated: February 8, 1989

By: Wendy Bohlke

Assistant Attorney General

**STATEMENT OF PURPOSE**

Title and Number of Rule: Repealing chapter 132D-12 WAC, Petition for promulgation, amendment or repeal of rule.

Statutory Authority: RCW 28B.50.140 (7)(9).

Specific Statute that Rule is Intended to Implement: N/A.

Summary of Rules: Chapter 132D-12 WAC, these rules are no longer valid due to legislative enactment of such authority in chapter 28B.16 RCW.

Reasons Supporting the Proposed Rules: N/A.

Agency Personnel Responsible for Drafting: Wendy Bohlke, AAG, 320 BNB, 103 East Holly, Bellingham, WA 98225, 738-2037 scan; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mt. Vernon, WA 98273, 542-1180 scan.

Name of Person Proposing the Rules: Wally Sigmar.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with the federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: N/A.

Chapter 132D-20 WAC

**NEGOTIATIONS BY ACADEMIC PERSONNEL**

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

(1) WAC 132D-20, NEGOTIATIONS BY ACADEMIC PERSONNEL.

**Reviser's note:** The repealer appears as filed by the institution pursuant to RCW 34.08.040, however the reference to section is probably intended to be to chapter.

**Reviser's note:** Chapter 132D-12 WAC is referred to in the institution's CR-4 form and statement of purpose, however the proposed text of the repealer is shown by the institution as chapter 132D-20 WAC, and appears herein as filed by the institution.

**WSR 89-05-013****ADOPTED RULES****STATE EMPLOYEES BENEFITS BOARD**

[Resolution No. 89-1—Filed February 9, 1989]

Be it resolved by the State Employees Benefits Board, acting at the Department of Transportation, Materials Lab Building, Tumwater, Washington, that it does adopt the annexed rules relating to:

New WAC 182-08-165 Other group coverage option.  
Rep WAC 182-12-140 New eligible employees.

This action is taken pursuant to Notice No. WSR 89-02-070 filed with the code reviser on January 4, 1989. 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 State Employees Benefits Board as authorized in RCW 41.05.065.

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

APPROVED AND ADOPTED February 8, 1989.

By C. H. Shay  
Assistant Benefits Manager

**NEW SECTION**

WAC 182-08-165 OTHER GROUP COVERAGE OPTION. The following shall apply to employees during any period of approved educational leave. In order to avoid duplication of group medical coverage, such employees who obtain coverage under another group medical plan may interrupt continuance of their SEBB self-pay medical coverage for each full calendar month in which they maintain coverage under the other group medical plan, with the right to reinstate SEBB self-pay medical/dental coverage in the month following termination of the other group medical coverage. Provided, that the furnishing of evidence of such other group medical coverage may be required by the Washington state health care authority. Provided further, that the option to continue self-pay SEBB dental coverage shall be suspended for the same period that SEBB self-pay medical is suspended.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 182-12-140 NEW ELIGIBLE EMPLOYEES.

**WSR 89-05-014****PROPOSED RULES****LOTTERY COMMISSION**

[Filed February 9, 1989]

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 official end of game, amending WAC 315-10-060.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7, 1989.

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.

This notice is connected to and continues the matter in Notice No. WSR 89-01-103 filed with the code reviser's office on December 21, 1988.

Dated: February 7, 1989

By: Scott L. Milne  
Deputy Director

**WSR 89-05-015****ADOPTED RULES****LOTTERY COMMISSION**

[Order 114—Filed February 9, 1989]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New WAC 315-11-400 Definitions for Instant Game Number 40 ("Double Header").  
New WAC 315-11-401 Criteria for Instant Game Number 40.  
New WAC 315-11-402 Ticket validation requirements for Instant Game Number 40.  
Amd WAC 315-06-035 Instant ticket purchase price and conditions.

This action is taken pursuant to Notice No. WSR 89-01-103 filed with the code reviser on December 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 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 February 3, 1989.

By Scott L. Milne  
Deputy Director

**NEW SECTION**

WAC 315-11-400 DEFINITIONS FOR INSTANT GAME NUMBER 40 ("DOUBLE HEADER"). (1) Play symbols: The following are the "play symbols": "0"; "1"; "2"; "3"; "5"; "6"; "7"; and "9".

One of these symbols appears under each of the two rub-off spots in the "your score" column and under each of the two rub-off spots in the "their score" column in the play field on the front of the ticket.

(2) Captions: The small printed characters appearing below each play symbol which corresponds with and verifies that play symbol. The caption is a spelling out in full or in abbreviated form of the play symbol. One and only one caption appears under each play symbol. The number 1 or 2 precedes the play symbols to indicate the location of the play symbol in Game 1 or Game 2. For Instant Game Number 40, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZRO
1	ONE
2	TWO
3	THR
5	FIV
6	SIX
7	SVN
9	NIN

(3) Prize symbols: The following are the "prize symbols": "\$1.00", "\$4.00", "50.00", "\$250". One of these prize symbols appears for each game (row) in the prize column on the front of the ticket.

(4) Captions: 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. The number 1 or 2 precedes the prize symbols to indicate the location of the prize symbol in Game 1 or Game 2. For Instant Game Number 40, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 4.00	FOR DOL
\$ 50.00	\$FIFTY\$
\$250	TWO FIF

(5) Validation number: The unique nine-digit random number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The ten-digit number of the form 4000001-000 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 40 constitute the "pack number" which starts at 4000001; the last two 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 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 40, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols and

prize symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$1.00
TWO	\$2.00 (\$1 and \$1)
FOR	\$4.00
EGT	\$8.00 (\$4 and \$4)

(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 315-11-401 CRITERIA FOR INSTANT GAME NUMBER 40. (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: The bearer of a ticket having a play symbol in the "your score" column that is a larger number than the play symbol in the "their score" column in the same game (row) shall win the prize shown in the prize column for that game (row). The bearer of a ticket having winning play symbols in both Game 1 and Game 2 shall win the total amount of both prizes. Play symbols in different games (rows) may not be combined to win a prize.

(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 40 set forth in WAC 315-11-402, 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 40; and/or

(b) Vary the number of tickets sold in Instant Game Number 40 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-402 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 40. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 40 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the two rub-off spots in the "your score" column and under each of the two rub-off spots in the "their score" column on the front of the ticket.

(b) Each of the four play symbols must have a caption below and each must agree with its caption.

(c) Exactly one prize symbol for each of the two games (rows) must appear under the rub-off material covering the prize column on the front of the ticket.

(d) Each of the two prize symbols must have a caption below and each must agree with its 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 Archer 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 retailer verification code must be printed in black ink.

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-400(1); each of the captions must be exactly one of those described in WAC 315-11-400(2), the prize symbol must be exactly one of those described in WAC 315-11-400(3); and the prize symbol caption must be exactly one of those described in WAC 315-11-400(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.

**AMENDATORY SECTION** (Amending Order 83, filed 12/16/85)

**WAC 315-06-035 INSTANT TICKET PURCHASE PRICE AND CONDITIONS.** (1) The lottery retailer's purchase price for each pack of instant tickets shall be the retail price of the pack less the value of the pack's low-tier prizes less the retailer discount authorized pursuant to WAC 315-04-190. Lottery retailers shall reimburse the lottery for each low-tier prize payment made by the lottery for winning tickets purchased from the lottery retailer.

(2) Lottery retailers shall make payment to the lottery by business check, cashier's check, certified check, money ((σ)) order or electronic funds transfer (EFT). The director may designate the form of payment.

(3) The director shall establish payment terms for purchase of instant tickets and shall issue instructions for such payments to lottery retailers.

**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 89-05-016**

**ADOPTED RULES**

**DEPARTMENT OF LABOR AND INDUSTRIES**

[Order 88-31—Filed February 9, 1989]

I, Joe Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Standards for

mobile homes, commercial coaches, and recreational vehicles—Definitions; WAC 296-150B-015(28) Mobile home; and 296-150B-015(37) Park trailer.

This action is taken pursuant to Notice No. WSR 88-24-045 filed with the code reviser on December 7, 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 43.22.340 through 43.22.445 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 9, 1989.

By Joseph A. Dear  
Director

**AMENDATORY SECTION** (Amending Order 88-19, filed 9/9/88)

**WAC 296-150B-015 DEFINITIONS.** For the purposes of this chapter:

(1) "Alteration" means the replacement, addition, modification, or removal of any equipment or installations that affect the construction, structural members, fire safety, or occupancy classification, or the plumbing, heating, or electrical systems, of a structure or component.

The following are not alterations unless they are made to repair damage caused by fires, floods, or damage in transit or during installation.

(a) Repairs with approved parts;

(b) Modification of a listed fuel-burning appliance in accordance with the terms of its listing;

(c) Replacement of equipment with similar equipment; and

(d) Adjustment and maintenance of equipment.

(2) "Approved" means approved by the department.

(3) "Anchoring system" means a system of straps, cables, turnbuckles, bolts, fasteners, or other approved components that secures a mobile home to ground anchors or to other approved fastening devices.

(4) "Audit" means an inspection to examine for compliance a manufacturer's production and quality control procedures.

(5) "Building site" means a tract, parcel, or subdivision of land, including a mobile home park, on which a structure other than a recreational vehicle is or will be installed.

(6) "Component" means a discrete element that is:

(a) Designed to be installed in a structure;

(b) Manufactured as a unit; and

(c) Designed for a particular function or group of functions. "Component" includes service cores.

(7) "Consumer" means a person, firm, corporation, agency, or governmental body, other than a manufacturer or dealer, that buys or leases a structure for his, her, or its own use.

(8) "Custom structure" means a one-of-a-kind structure.

(9) "Dealer" means a person, company, or corporation authorized to engage in the business of leasing, selling, offering for sale or lease, buying, or trading structures.

(10) "Department" means the department of labor and industries.

(11) "Design option" means a design that a manufacturer may use as an option to its design plan.

(12) "Design plan" means a plan for construction of a structure or component.

(13) "Equipment" means all materials, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of structures and components.

(14) "Footing" means the portion of a foundation system that transmits loads from a mobile home to the soil.

(15) "Foundation fascia" means the materials that enclose the entire perimeter of a mobile home and form a plane between the exterior wall of the mobile home and the ground.

(16) "Foundation system" means the footings, piers, caps, and shims that support a mobile home.

(17) "HUD" means the federal Department of Housing and Urban Development.

(18) "Independent inspection agency" means an organization that is in the business of inspecting structures, components, or equipment.

(19) "Insignia" means a label, stamp, or tag issued by the department to indicate that the structure or component bearing the insignia complies with this chapter or the HUD mobile home standards.

(20) "Install" means to erect, construct, assemble, or set in place a structure, component, or piece of equipment at a building site or in another structure or building.

(21) "Labeled" means bearing the department's insignia, HUD's insignia, or a label of approval from a testing or listing agency.

(22) "Lease" means an oral or written contract for the use, possession, or occupancy of property. It includes rent.

(23) "Listed" means that a piece of equipment, a component, or an installation appears in a list published by an approved testing or listing agency.

(24) "Listing agency" means an organization that is in the business of approving equipment or installations.

(25) "Local enforcement agency" means a city or county agency that enforces laws or ordinances governing the construction and installation of structures and components.

(26) "Main frame" means the structural component on which the structure may be mounted.

(27) "Manufacturing" means making, fabricating, forming, or assembling a structure, service core, component, equipment, or installation.

(28) "Mobile home" means a "manufactured home" that is a structure, transportable in one or more sections, ~~((that))~~ which in the traveling mode, is eight body feet or more in width or ~~((thirty-two))~~ forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and ~~((that))~~ which is

built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. ~~(("Mobile home" shall include any structure that meets all the requirements of this paragraph))~~ Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term includes all structures which meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification ((required by HUD and complies with the standards established)) pursuant to §3282.13 and complies with the standards set forth in Part 3280 by HUD.

(29) "Ordinance" means the part of a code adopted by this chapter that prescribes an item other than a method of construction, such as room sizes, floor plans, lighting, ventilation, ceiling heights, and exits.

(30) "Pier" means the part of the mobile home foundation system between the footing and the floor frame or floor joist, excluding caps and shims.

(31) "Quality control" means the plan and method for ensuring that the manufacture, fabrication, assembly, or erection of structures, components, and installations, and the storing, handling, and use of materials, complies with this chapter.

(32) "Recreational vehicle" means a vehicular type unit primarily designed for recreational camping, travel, or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basic entities are: Travel trailer, folding camping trailer, park trailer, truck camper, motor home, and multi-use vehicles.

(33) "Structure" means a mobile home, commercial coach, or recreational vehicle that is entirely or substantially prefabricated or assembled at a factory or a place other than the building site on which the structure will be installed.

(34) "System" means a part of a structure or component that is designed to serve a particular function, such as a structural, plumbing, electrical, heating, or mechanical system.

(35) "Testing agency" means an organization that is in the business of testing equipment, installations, or systems.

(36) "Commercial coach" means a structure transportable in one or more sections that is built on permanent chassis and designed to be used for commercial purposes with or without a permanent foundation when connected to the required outlets and may include plumbing, heating, air conditioning, and electrical systems contained therein. A commercial coach shall not be used as a single family dwelling.

(37) "Park trailer" means a vehicular unit which meets the following criteria:

(a) Built on a single chassis, mounted on wheels.



(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances.

(c) A gross trailer area not exceeding four hundred square feet (~~when calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows when the sill is located twelve inches or more above the finished floor~~). In calculating the square footage of a home, measurements shall be taken on the exterior of the home. The square footage includes all siding, corner trim, and molding, storage space, and area enclosed by windows but not the roof overhang.

(d) (~~Of such a construction as to permit set-up by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices.~~

(~~e~~)) Exceeds the size restrictions specified in ANSI 119.2.

(38) "Uniform standards" as used in RCW 43.22.440 means those set-up instructions provided by the manufacturer, or specified in this chapter under WAC 296-150B-225 through 296-150B-255. No other requirements may be imposed.

Exception: When extenuating conditions exist, not addressed in this chapter or the set-up instructions provided by the manufacturer, the local building official having jurisdiction shall be consulted.

**WSR 89-05-017**  
**ADOPTED RULES**  
**INSURANCE COMMISSIONER**  
 [Order R 89-3—Filed February 9, 1989]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of WAC 284-23-550 to reduce from six to five percent the interest rate to be applied to cumulative premiums.

This action is taken pursuant to Notice No. WSR 89-01-102 filed with the code reviser on December 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 48.02.060 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.30.010.

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

APPROVED AND ADOPTED February 9, 1989.

Dick Marquardt  
 By David H. Rodgers  
 Chief Deputy  
 Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-12, filed 12/7/88)

WAC 284-23-550 RELATIONSHIP OF DEATH BENEFITS TO PREMIUMS—UNFAIR PRACTICE DEFINED. (1) It is an unfair practice for any insurer to provide life insurance coverage on any person through a policy or certificate of coverage delivered on or after April 1, 1989, to or on behalf of such person in this state, unless the benefit payable at death under such policy or certificate will equal or exceed the cumulative premiums, as defined in subsection (4) of this section, paid for the policy or certificate, plus interest thereon at the rate of (~~six~~) five percent per annum compounded annually to the tenth anniversary of the effective date of coverage.

(2) This section applies to death benefits in relation to premiums, subject to the following provisions:

(a) When determining the relationship between benefits and premiums as set forth in subsection (1) of this section, neither premiums nor death benefits shall be adjusted for maturity benefits, surrender benefits, or policy loans.

(b) Annuity benefits, including annuity death benefits, and the premiums therefor shall be disregarded in applying this section.

(c) The following benefits, but not the premiums therefor, shall be disregarded in applying this section:

(i) Accidental death benefits;

(ii) Permanent disability benefits; and

(iii) Any benefit similar to (c)(i) or (ii) of this subsection.

(3) For coverage which varies by duration, including coverage provided through dividends, the "benefit payable at death" for purposes of this section is the sum of the least death benefit during each policy year, for the lesser of ten years or the term of the coverage, including renewals, divided by the number of death benefits included in said sum.

(4) "Cumulative premiums," for purposes of this section, means all sums paid as consideration, net of dividends paid in cash in an orderly progression, for the coverage during the first ten years of the coverage, excluding amounts which are designated in the policy or certificate as providing for annuity benefits.

(5) The benefits required by this section shall be provided contractually. If the policy or certificate must rely on dividends or "nonguaranteed" premiums or benefits to obtain compliance, then said policy or certificate shall contain a provision guaranteeing compliance.

(6) This section does not apply to:

(a) Life insurance where the minimum death benefit is twenty-five thousand dollars or more; or

(b) Group life insurance coverage unless the insured pays all or substantially all of the premium; or

(c) Limited payment whole life insurance where the death benefit is constant and the premiums are level at

all times, if the death benefit exceeds the total of all premium payments.

(7) Approval of the policy forms which do not comply with this section is hereby withdrawn effective April 1, 1989.

**WSR 89-05-018**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed February 10, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning midwifery fees, WAC 308-115-405;

that the agency will at 10 a.m., Wednesday, March 22, 1989, in the Exam Center, First Floor, 1300 Quince Street, 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 a date following the hearing.

The authority under which these rules are proposed is RCW 43.24.086.

The specific statute these rules are intended to implement is RCW 43.24.086.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

Dated: February 8, 1989

By: Martha A. French  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Department of Licensing.

Purpose: To establish the amount of fees associated with the licensure and regulation of professions administered by the Department of Licensing.

Statutory Authority: RCW 43.24.086.

Summary of Rules: WAC 308-115-405 Midwifery fees.

Reason Proposed: To set the fees for the midwife-in-training program at a sufficient level to defray the costs of administering the program.

Responsible Department Personnel: In addition to the Department of Licensing, the following personnel have knowledge of and responsibility for drafting, implementing, and enforcing the rules: Susan Boots, Assistant Program Manager, 1300 Quince S.E., Olympia, WA 98504, phone 234-2807 scan, 753-2807 comm.

Proponents: The director of the Department of Licensing.

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

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as the term is defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order PM 667, filed 8/27/87)

WAC 308-115-405 MIDWIFERY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Initial application	\$225.00
Examination	250.00
Reexamination (second subsequent or more)	250.00
Renewal	175.00
Late renewal penalty	175.00
Duplicate license	15.00
Certification	25.00
Application fee—Midwife-in-training program	75.00

**WSR 89-05-019**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
[Order PM 794—Filed February 10, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at the Department of Licensing Examination Center, 1300 Quince Street S.E., Olympia, WA 98504, at 1:00 p.m., October 12, 1988, the annexed rules relating to registration of nursing pools, new sections WAC 308-310-020, 308-310-030 and 308-310-040.

This action is taken pursuant to Notice No. WSR 88-18-080 filed with the code reviser on September 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 18.52.030 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 20, 1989.

By Mary Faulk  
Director

NEW SECTION

WAC 308-310-020 REGISTRATION OF A NURSING POOL. (1) After January 1, 1989, no individual, firm, corporation, partnership or association may advertise, operate, manage, conduct, open or maintain a business providing, procuring, or referring health care personnel for temporary employment in health care facilities without first registering with the department of licensing.

(2) Applicants for nursing pool registration shall submit to the department of licensing:

- (a) A completed application for registration on forms furnished by the department;
- (b) A registration fee;
- (c) The names and addresses of the owner or owners of the nursing pool;
- (d) If the owner is a corporation:

(i) Copies of the articles of incorporation and current bylaws;

(ii) The names and addresses of officers and directors.

(3) If the applicant meets the requirements of this chapter and chapter 18.130 RCW, the department shall issue a registration which shall remain effective for a period of one year from date of issuance unless revoked or suspended pursuant to chapter 18.130 RCW, or voided pursuant to subsection (4) of this section.

(4) If the registered nursing pool is sold or ownership or management is transferred, the new owner or operator shall apply for a new registration.

(5) Each separate location of the business of a nursing pool shall have a separate registration.

#### NEW SECTION

WAC 308-310-030 RENEWAL OF REGISTRATION. Nursing pools requesting renewal of registration shall submit a renewal application and fee to the department. If a nursing pool fails to renew its registration prior to the expiration date, the nursing pool is subject to a penalty fee.

#### NEW SECTION

WAC 308-310-040 DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION. The director may deny, suspend, or revoke the registration and/or assess penalties if any nursing pool is found to have violated the provisions of chapter 18.130 RCW, the Uniform Disciplinary Act, or of this chapter.

**WSR 89-05-020**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Dental Disciplinary Board)**  
 [Filed February 10, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Dental Disciplinary Board intends to adopt, amend, or repeal rules concerning specialty representation, amending WAC 308-37-190;

that the agency will at 9:00 a.m., Friday, March 10, 1989, in the Ramada Inn at Sea-Tac, Salon D., 18118 Pacific Highway South, Seattle, WA 98118, 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 18.32.640.

This notice is connected to and continues the matter in Notice No. WSR 89-02-064 filed with the code reviser's office on January 4, 1989.

Dated: February 10, 1989  
 By: Amanda L. Tomlinson  
 Assistant Attorney General

#### **WSR 89-05-021**

##### ADOPTED RULES

#### **BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

[Order PM 820—Filed February 10, 1989]

Be it resolved by the Washington Board of Registration for Professional Engineers and Land Surveyors, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 196-16-007	Applications.
Amd	WAC 196-16-020	Examinations.
Amd	WAC 196-16-031	Reciprocity.
Amd	WAC 196-24-080	Fees.
Amd	WAC 196-24-085	Temporary permits.

This action is taken pursuant to Notice No. WSR 89-01-078 filed with the code reviser on December 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 18.43.035 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Washington Board of Registration for Professional Engineers and Land Surveyors as authorized in RCW 18.43.035.

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

APPROVED AND ADOPTED February 8, 1989.

By Alan E. Rathbun, P.E.  
 Registrar

#### AMENDATORY SECTION (Amending Order PM 738, filed 5/27/88)

WAC 196-16-007 APPLICATIONS. All applications must be filed with the registrar at the board's official address. The deadline for receipt of a properly completed application accompanied by the required application fee is four months prior to the date of the examination. Response from applicant's references must be in hand three months before the date of the examination. Applications received after the deadline will be held for consideration for a later examination. Late responses from references will also cause the application to be held for consideration for a later examination. Those who have previously taken the examination and failed or those who qualified and did not appear for the examination are required to notify the board office in writing three months before the examination which they intend to take. A new application is not required where an applicant has taken the previous examination and failed or has filed and failed to appear for the previous examination. ((However, a new complete application is required every five years after approval by the board until registration in Washington state is obtained.))

AMENDATORY SECTION (Amending Order PL 454, filed 1/25/84)

WAC 196-16-020 EXAMINATIONS. The examinations are given in two parts: (1) Fundamentals and (2) principles and practice, each of one day's duration. The fundamentals ~~((and principles and practice consist of two sessions, one in the morning and one in the afternoon. All examinations will be open book unless otherwise specified by the board))~~ of land surveying examination shall test knowledge areas including, but not limited to, the following: Mathematics, measurement techniques, field techniques, computation techniques, and record sources. The principles and practice examination shall test knowledge areas including, but not limited to, the following: Washington state law and judicial decisions, public land system, property descriptions, surveying principles procedures and standards, geometrics, error analysis together with ethics and professional conduct. Copies of the examination matrices are available from the board office upon request.

A candidate may elect to sit for the examination in two consecutive days or may sit for one part of one examination and the other part at a subsequent examination.

A candidate failing either the fundamentals or principles and practice and passing the other has only to repeat the part failed.

AMENDATORY SECTION (Amending Order PL 454, filed 1/25/84)

WAC 196-16-031 RECIPROCITY. Applicants for registration as a land surveyor by reciprocity ~~((; who have been qualified by a written sixteen-hour examination, in a state that gives like consideration to Washington registrants, and are in good standing with the examining state, will be exempt from the Washington state sixteen-hour written examination.))~~ will be exempt from the full sixteen-hour written examination administered by this board provided:

(1) That the applicant's qualifications meet the requirements of chapter 18.43 RCW and the rules established by the board;

(2) That the applicant has been qualified by a written sixteen-hour examination determined by the board to be equivalent to the exam administered in Washington;

(3) That the applicant has a currently valid license in the state of original licensure; and

(4) That the applicant's state of original licensure gives like consideration to Washington registrants.

All candidates will be required to pass a written examination as prescribed by the board. The examination shall test knowledge areas as described in WAC 196-16-020.

AMENDATORY SECTION (Amending Order PL 454, filed 1/25/84)

WAC 196-24-080 FEES. All checks or money orders shall be made payable to the state treasurer. Registration: The application must be accompanied with the required fee; with engineers submitting the certificate fee after passage of the exam. Should the board deny the

application, the initial fee will be retained as an application fee. An applicant who fails the first scheduled exam may be reexamined once without payment of an additional fee, provided he notifies the board office in writing of his intention to appear for the examination a second time at least three months prior to said examination. Each subsequent examination will be granted upon payment of an examination fee received at least three months prior to said examination. Applicants who fail to appear for ~~((scheduled examinations will forfeit their re-examination privilege or examination fee))~~ an examination, for which they are scheduled, will forfeit their examination fee and/or their privilege to be reexamined without an additional fee. Applicants may withdraw from a scheduled examination without penalty by submitting a written notice to the board office no later than six weeks prior to the date of examination.

AMENDATORY SECTION (Amending Order PM 606, filed 6/4/87)

WAC 196-24-085 TEMPORARY PERMITS—INFORMATION REQUIRED OF NONRESIDENTS INTENDING TO PRACTICE THIRTY DAYS OR LESS IN A CALENDAR YEAR. Nonresident land surveyors will not be allowed to practice in Washington unless licensed under the provisions of chapter 18.43 RCW. Every nonresident engineer who intends to conduct professional practice under the exemption of subsection (2) of RCW 18.43.130, shall furnish the board, a minimum of three months prior to the commencement of such work with the following information:

(1) ~~((Name and place of his residence.))~~ A properly completed application as prescribed by the board.

(2) Jurisdiction where currently registered.

(3) Imprint of professional seal.

(4) Dates work is to be started and terminated in the state of Washington. If the time differential between the starting and terminating date is in excess of thirty days in any calendar year, applicant must specify the days (totalling no more than thirty) on which the practice of engineering is to be performed in Washington.

(5) Name and address of client.

(6) ~~((Type, location of job))~~ Description and location (address) of project and regulating authority (if applicable).

~~((Nonresident land surveyors will not be allowed to practice in Washington unless licensed under the provisions of chapter 18.43 RCW.))~~ (7) Application fee as determined by the director of the department of licensing.

Upon approval of the information submitted, the board shall issue a permit to the nonresident engineer for the temporary practice of engineering in Washington.

Plans, specifications, and reports prepared by the nonresident engineer shall be signed, dated, and stamped with their professional seal. A copy of the permit issued by this board shall be attached to the engineering documents submitted for approval or building permit.

The exemption contained in RCW 18.43.130(2) shall only apply to individuals. Corporations and partnerships shall not practice in Washington unless authorized to do so under RCW 18.43.130 (8) and (9).

**WSR 89-05-022**  
**ADOPTED RULES**  
**DEPARTMENT OF TRANSPORTATION**  
 [Order 119—Filed February 10, 1989]

I, Duane Berentson, secretary of Transportation, do promulgate and adopt at the Transportation Building, Room 1D19, Olympia, Washington 98504, the annexed rules relating to Utility lines—Franchises and permits, chapter 468-34 WAC, adoption of new and amended sections to chapter 468-34 WAC.

This action is taken pursuant to Notice No. WSR 89-02-005 filed with the code reviser on December 22, 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 47.44 RCW which directs that the Department of Transportation has authority to implement the provisions of franchises on state highways.

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

APPROVED AND ADOPTED February 10, 1989.

By Ed W. Ferguson  
 Deputy Secretary

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-020 COSTS. (1) The applicant shall pay the reasonable cost to the department for investigating, handling and granting the franchise or permit, including but not limited to fees of hearing officers and reporters, including basic overhead charges upon the application and for providing an inspector during construction and/or maintenance of the utility facility as follows:

For each new franchise .....	<del>\$(150.00)</del> 500.00
For renewal of franchise .....	<del>\$(75.00)</del> 250.00
For amendment of franchise .....	<del>\$(100.00)</del> 300.00
For consolidation of franchise .....	\$300.00
For assignment of franchise .....	<del>\$(20.00)</del> 50.00
For each permit .....	<del>\$(35.00)</del> 150.00

together with an additional charge in the amount of expenses, if any, actually incurred by the department (~~in investigation of the application~~): PROVIDED, That no charge shall be made for applications for franchise or permit where the applicant is the United States or any of its agencies, or a utility anticipating relocation from its private easement acquired or to be acquired by the department for construction or reconstruction of a state highway.

(2) An equitable portion of the added costs of design and construction of highway structures shall be charged

to any utility company which is required to pay the costs of relocation of its facilities and/or to any utility company making new installations.

(3) Before any construction work is started, a surety bond in an amount required by the department, but not less than one thousand dollars, written by a surety company authorized to do business in the state of Washington, may be required by the department to insure completion of construction, including the restoration of surfacing, slopes, slope treatment, top soil, landscape treatment, drainage facilities and cleanup of right of way for a period ending not more than one year after date of completion, except the applicant shall be required to maintain an individual bond for a period to two years after date of completion where the utility facility disturbs the traveled lanes or usable shoulder. A blanket surety bond may be maintained covering multiple franchises or permits in lieu of individual bonds at the department's discretion. A blanket surety bond shall be in an amount of not less than ten thousand dollars.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-060 PROTESTS. Any person whose interests would be adversely affected by the granting of a franchise may file protests thereto. No form of protest is prescribed, but such protests shall be in writing, mailed to the department of transportation (~~Olympia, Washington~~) at the address listed in the notice, and to the applicant at the address stated in the application for franchise, and shall briefly state the facts upon which such protest is based. No protest or amendment thereof shall be considered by the department unless received within fourteen days after the notice of filing has been posted and published.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-100 POLICY ON ACCOMMODATION OF UTILITIES ON HIGHWAY RIGHTS OF WAY. This policy shall apply to all franchises and permits issued subject to chapter 47.44 RCW to all public (~~and~~), private (~~utilities for electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation and similar~~), and governmental utility lines that are to be located, adjusted or relocated within the rights of way of state highways other than provided for in chapter 47.24 RCW.

Nothing in this policy shall be construed as limiting the rights of the department to impose restrictions or requirements in addition to and/or deviations from those stated herein in any franchise or permit where the department deems it advisable to do so.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-110 DEFINITION OF TERMS. Unless otherwise stated, words and phrases used herein shall have the following meaning:

(1) Highway – A general term denoting a street, road or public way for purposes of vehicular travel, including the entire area within the right of way.

(2) Conventional highway – An arterial highway without access control.

(3) Limited access highway – A highway upon which the rights to ingress and egress, light, view and air are controlled by law.

(a) Full control of access – Means that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads by prohibiting crossings or direct private driveway connections at grade.

(b) Partial control of access – Means that the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings and some private driveway connections at grade.

(c) Modified control of access – Means that the authority to control access is exercised to give preference to through traffic to such a degree that most approaches, including commercial approaches, existing and in use at the time of establishment, may be allowed.

(d) Freeway – A fully controlled limited access highway of four or more traffic lanes with the opposing traffic lanes separated by a median strip of arbitrary width.

(4) Frontage road – A local street or road auxiliary to an arterial highway for service to abutting property and adjacent areas and for control of access.

(5) Scenic route – A highway forming a part of the scenic and recreational highway system as set forth under chapter 47.39 RCW.

(6) Roadway prism – That portion of the highway right of way between back of ditch, bottom of ditch, back of curbs including slopes, shoulders, pavement and a median of less than sixteen feet in width.

(7) Roadway – The portion of a highway including shoulders, for vehicular use. A divided highway has two or more roadways.

(8) Median – The portion of a divided highway separating the traveled ways for traffic in opposite directions.

(9) Roadside – ~~((A general term denoting))~~ The roadside is the area ((adjoining)) between the ((outer)) edge of the roadway((- Extensive areas between the roadways of a divided highway may also be considered roadside)) shoulder and the right of way line and unpaved medians on multilane highways.

(10) Rest area – A roadside area with parking facilities separated from the roadway provided for motorists to stop and rest. It may include drinking water, toilets, tables and benches, telephones, information, and other facilities for travelers.

(11) Viewpoint – A roadside area provided for motorists to stop their vehicles beyond the shoulder, primarily for viewing the scenery in safety.

(12) Right of way – A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to highway transportation purposes.

(13) Clear roadside policy – The policy employed by a highway authority to increase safety, improve traffic operation and enhance the appearance of highways by designing, constructing and maintaining highway roadsides as wide, flat, and rounded as practical and as free as practical from physical obstructions above the ground such as trees, drainage structures, ~~((massive))~~ nonyielding sign supports, utility poles and other ground-mounted obstructions.

(14) Encroachment – Unauthorized use of highway right of way as for signs, fences, buildings, etc.

(15) Restoration – A general term denoting replacing, repairing or otherwise restoring the right of way to the same or equal conditions as before any change or construction thereon.

(16) Franchise – Occupancy and use document required for longitudinal occupancy of highway rights of way in accordance with chapter 47.44 RCW.

(17) Permit – Occupancy and use document required for an occupancy of the highway rights of way other than by franchise as provided in chapter 47.44 RCW.

(18) Private lines – Privately owned facilities which convey or transmit commodities as listed in WAC 468-34-100, but are devoted exclusively to the use of the owner.

(19) Roadway structure – The combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load and distribute it to the roadbed.

(20) Overcrossing – A grade separation where the subject highway passes over an intersecting highway or railroad.

(21) Undercrossing – A grade separation where the subject highway passes under an intersecting highway or railroad.

(22) Backfill – Replacement of soil around and over a pipe.

(23) Bedding – Organization of soil or fine gravel to support a pipe.

(24) Overfill – Backfill above a pipe.

(25) Sidefill – Backfill alongside a pipe.

(26) Carrier – Pipe directly enclosing a transmitted fluid (liquid or gas).

(27) Casing – A larger pipe enclosing a carrier.

(28) Sleeve – Short casing through pier or abutment of highway structure.

(29) Vent – Appurtenance to discharge gaseous contaminants from casings.

(30) Coating – Material applied to or wrapped around a pipe.

(31) Conduit or Duct – An enclosed tubular runway for protecting wires or cables.

(32) Cover – Depth of top of pipe below grade of roadway or ditch.

(33) Drain – Appurtenance to discharge accumulated liquid contaminants from casings or other enclosures.

(34) Encasement – Structural element surrounding a pipe.

(a) Jacket – Encasement by concrete poured around a pipe.

(b) Walled – Partially encased by concrete poured alongside the pipe.

(35) Gallery – An underpass for two or more pipelines.

(36) Grounded – Connected to earth or to some extended conducting body which serves as a ground instead of the earth.

(37) Manhole – An opening in an underground system which workmen or others may enter for the purpose of making installations, inspections, repairs, connections, and tests.

(38) Pipeline – A tubular product made as a production item for sale as such.

(39) Pressure – Relative internal pressure in psig (pounds per square inch gage).

(40) Slab, floating – Slab between but not contacting pipe and pavement.

(41) Trenched – Installed in a narrow open excavation.

(42) Untrenched – Installed without breaking ground or pavement surface, such as by jacking or boring.

(43) Utility service connection – A service connection from a utility's distribution or feeder line or main to the premises served.

(44) Traffic control – Those provisions necessary to safeguard the public during construction activities.

(45) Normal – Crossing at a right angle.

(46) Standard specifications for road (~~and~~), bridge, and municipal construction – The compilation of standard requirements for road (~~and~~), bridge, and municipal construction issued by the Washington state department of transportation.

(47) True line and grade – A line reasonably free from variation on both horizontal and vertical alignment.

(48) Control zone guidelines – Guidelines established to control the placement of above-ground utility facilities within the highway right of way.

(49) Major reconstruction – Upgrading the capacity of the facility and/or replacement of more than fifty percent of the poles or towers within any mile.

(50) Roadbed – The graded part of the roadway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

(51) Subgrade – The top surface of the roadbed on which subbase, base, surfacing, pavement, or layers of similar materials are placed.

(52) Utility – A term denoting electric power, communication, cable television, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation, fire or police signal systems, and similar lines. Also, the term utility includes those utility-type facilities which are owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility does not include utility-type facilities required for the support, control, operation, and maintenance of the highway system, if they are owned and controlled by the highway authority.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-120 APPLICATION OF POLICY TO VARIOUS TYPES OF RIGHT OF WAY. The

applicable policy for the accommodation of utilities on various types of highways shall be in accordance with the following:

(1) Freeways – Accommodation of utilities shall be in accordance with "A Policy on the Accommodation of Utilities on Freeway Rights-of-Way" issued by the American Association of State Highway and Transportation Officials (~~((AASHTO) 1969)) (AASHTO) 1982~~, and amendments thereto, and this policy.

(2) Limited access highways – Accommodation of utilities shall be the same as for freeways.

(3) Conventional highways – Rural – Accommodation of utilities shall be in accordance with this policy.

(4) Conventional highways – Cities and towns – Accommodation of utilities shall be in accordance with:

(a) Underground

(i) Water and sewer – ~~The ((currently applicable)) current "Standard Specifications for Road, Bridge, and Municipal ((Public Works)) Construction(;-)" ((published by Washington State Chapter American Public Works Association)).~~

(ii) All other facilities – Accommodation of utilities shall be in accordance with this policy.

(b) Overhead – Accommodation of utilities shall be in accordance with this policy.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13)

WAC 468-34-130 LOCATION. (1) Utility installations should be located to minimize need for later adjustment to accommodate future highway improvements and to permit access for servicing such lines with minimum interference to highway traffic and must be located in accordance with the control zone guidelines.

(2) Longitudinal installations should be located on a uniform alignment and grade as near as practicable to the right of way line so as to provide a safe environment for traffic operation and preserve space for future highway improvements or other utility installations.

(3) Utility line crossings of the highway shall be normal to the highway center line to the extent feasible and practical. Crossings should be made on a true line and grade. Crossings entering the right of way at an angle greater than forty-five degrees from normal shall be considered longitudinal location except crossings within public road intersections.

(4) The horizontal location shall be placed with relation to the centerline of the highway as approved by the department.

(5) The vertical location of underground utility lines shall be in accordance with the currently applicable design standard for underground utility encroachments. The vertical clearance of above ground facilities shall be consistent with the clearances as provided in WAC 468-34-290.

(6) In all cases, full consideration shall be given to ~~((aesthetics))~~ visual quality, sound engineering principles, and overall economic aspects.

(7) Utility installations that are needed for a highway purpose, such as for continuous highway lighting or to serve a weigh station, rest or recreational area, are to be

located and designed in accordance with the requirements of this policy.

(8) The department may restrict the number of utility service connections, and require the placement of one or more distribution lines in lieu thereof.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-140 UTILITY TUNNELS AND BRIDGES. The department should (~~insure~~) ensure adequate study is made by the utility companies to anticipate their needs (present and future) for crossings and to determine if convergence of several crossings can be made to make it more feasible to use a utility tunnel or bridge.

In a combined tunnel or bridge, provision shall be made to isolate mutually hazardous transmittants such as fuels and electric energy by compartmentizing or by auxiliary encasement of incompatible carriers.

The utility tunnel or bridge shall comply in appearance, location, cover, earthwork and markers with the standards as set in the (~~currently applicable~~) current Standard Specifications for Road (~~and~~), Bridge, and Municipal Construction.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-150 DESIGN. (1) The utility company shall be responsible for the design of the utility facility. The department shall review and approve the utility's plans with respect to location and the manner in which the utility facility is to be installed and measures to be taken to preserve safe and free flow of traffic, structural integrity of the roadway or highway structure, ease of highway maintenance, appearance of the highway and the integrity of the utility facility.

(2) Utility installations on, over or under the rights of way and utility attachments to highway structures shall as a minimum comply with the following standards and/or amendments thereto:

(a) Electric power and communication facilities shall conform with the currently applicable National Electric Safety Code and/or Washington State Safety Code.

(b) Water lines shall conform with the (~~currently applicable~~) current Standard Specifications (~~of the American Water Works Association~~) for Road, Bridge, and Municipal Construction including but not limited to:

Welded Steel Water Pipe	AWWAC201 & ASTM A 120
	AWWAC203
	AWWAC205
( <del>Asbestos Cement Pipe</del> )	( <del>AWWAC400</del> )
Reinforced Concrete Water Pipe	AWWAC300
	AWWAC301
	AWWAC302
Cast Iron Water Pipe	AWWAC106
	AWWAC108
	AWWAC111
Wrought Iron Water Pipe	ASTMA72

(c) Pressure pipeline shall conform with the currently applicable sections of Standard Code for Pressure Piping of the American National Standards Institute and applicable industry codes, including:

(i) Power Piping, ANSI B 31.10

(ii) Petroleum Refinery Piping, ANSI B 31.3

(iii) Liquid Petroleum Transportation Piping Systems, ANSI B 31.4

(iv) CFR 49, Part 192, Transportation of Natural and Other Gas by Pipeline - Minimum Federal Safety Standards

(v) Liquid petroleum pipelines shall conform with the currently applicable recommended practice of the American Petroleum Institute for Pipeline Crossings Under Railroad and Highways. (API RP 1102)

(d) Sewer pipe shall conform with the (~~currently applicable~~) current Standard Specifications for Road (~~and~~), Bridge, and Municipal Construction.

(e) Drainage pipe shall conform with the (~~currently applicable~~) current Standard Specifications for Road (~~and~~), Bridge, and Municipal Construction.

(3) Ground mounted utility facilities shall be of a design compatible with the visual quality of the specific highway section being traversed.

(4) All utility installations on, over, or under highway right of way and attachment to highway structures shall be of durable material designed for long service life expectancy and relatively free from routine servicing and maintenance.

(5) On new installations or adjustment of existing utility lines, provision shall be made for known or planned expansion of the utility facilities, particularly those located underground or attached to structures. They shall be planned so as to minimize hazards and interference with highway traffic when additional overhead or underground lines are installed at some future date.

(6) Government or industry codes required by law or regulation shall be followed in addition to rules and regulations referred to herein. This shall include any highway design standards which the department shall deem necessary to provide adequate protection to the highway, its safe operation, appearance and maintenance.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-170 PERMITS AND FRANCHISES—CONTENTS. All permits or franchises shall:

(1) Incorporate all pertinent provisions of this policy as to location, construction, traffic protection, maintenance, access restriction, preservation of (~~aesthetic~~) visual qualities, and such special conditions as the department may deem appropriate.

(2) Generally describe the facilities to be installed as to size, type, nature and extent.

(3) Contain adequate exhibits, preferably state highway maps, depicting

(a) Existing or proposed location in relation to the highway.

(b) Existing or planned highway improvements.

(c) Right of way.

(d) Control of access and access points.



(4) Contain a summarization of the effects the installation will have on the aesthetics of the highway right of way and visible natural features.

(5) Specify the extent of liability and responsibilities associated with future adjustment of the utility facilities to accommodate highway improvements.

(6) Specify the effect of noncompliance with the conditions thereof.

(7) Contain terms which shall commit the holder to a pledge that performance of routine cutting and trimming work will be accomplished in such a manner that the roadside appearance will not be disfigured. When major work is involved, or damage to roadside appearance may become significant, the holder shall secure the approval of the department in advance of the work.

(8) Contain a certification of compliance with the control zone guidelines.

**AMENDATORY SECTION** (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

**WAC 468-34-190 PIPELINES—LOCATION AND ALIGNMENT.** (1) For all crossings, the angle of crossing should be based on economic considerations of practical alternates. The crossings should be as near normal to the highway centerlines as practical.

(2) Pipeline crossings should avoid deep cuts, footings of bridges and retaining walls, wet or rocky terrain or locations where highway drainage would be affected.

(3) Longitudinal installations shall parallel the highway and lie as near as practicable to the highway right of way line. Any longitudinal installation in the roadway or median, as defined in WAC 468-34-110 (7) and (8), ~~((of a limited access highway))~~ shall be considered a ~~((deviation))~~ variance from this policy. Any request for such a ~~((deviation))~~ variance must demonstrate that:

(a) The installation will not adversely affect the design, construction, stability, structural integrity, traffic safety or operation of the highway.

(b) The installation, other than in the roadway or median, will create an undue hardship or financial burden by reason of terrain, geology, or environmental damage along the roadside.

(4) Trenched crossing in the roadway as defined in WAC 468-34-110(7) shall be considered a variance from this policy. Any request for such a variance shall comply with subsection (3)(a) and (b) of this section.

**AMENDATORY SECTION** (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

**WAC 468-34-210 PIPELINES—ENCASEMENT.** (1) Casings shall be required for the following conditions except as may be permitted under subsection (3) of this section.

(a) Pipeline crossings under completed freeways and other controlled access highways.

(b) Pipeline crossings where casing is required by appropriate industry code or special conditions.

(c) Pressurized carrier pipes and carriers of transmittants which are flammable, corrosive, expansive, energized, or unstable.

(d) Pipeline installations where local features, embankment materials, construction methods or other conditions indicate any possibility of damage to the protective coating during installation.

(2) Casings may be required for the following conditions.

(a) As an expediency in the insertion, removal, replacement or maintenance of carrier pipe crossings of freeways and other locations where it is necessary in order to avoid open trench construction.

(b) As protection for carrier pipe from external loads or shock, either during or after construction of the highway.

(c) As a means of conveying leaking fluids or gases away from the area directly beneath the traveled way to a point of venting at or near the right of way line or to a point of drainage in the highway ditch or a natural drainage way.

(d) Jacked or bored installations of coated carrier pipes, except where assurance is provided the department that there will be no damage to the protective coating.

(3) Casings may or may not be required for the following conditions.

(a) Pipelines relocated in advance of highway construction, including those conveying natural or other gas which meet the design, installation and cathodic protection provisions of the Minimum Federal Safety Standards, CFR 49, Part 192 may be constructed without encasement provided the department (and the pipeline officials) agree that the lines are and will remain structurally sound and operationally safe.

(b) Uncased crossings for local service connections of one inch diameter or less carrying natural or other gas which conform to the design, installation, and cathodic protection provisions of the Minimum Federal Safety Standards, CFR 49, Part 192 may be permitted on two-lane highways at those locations where the department agrees that the embankment materials and installation methods are adequate and that complete assurance is provided against damage to the protective coating of the pipe or to the roadway structure.

(c) Pipelines installed where open cutting is allowed.

(4) Casing pipes shall extend a minimum of six feet beyond the toe of fill slopes, or back of ditch line, or outside curb. The casing pipe need not be continuous on freeways with or without frontage roads; however, maintenance in the median shall not be required on a routine basis.

(5) Casing pipes shall be sealed at the ends.

(6) Casing pipes shall be designed to support the load of the highway and superimposed loads thereon and, as a minimum, shall equal the structural requirements for highway drainage facilities. Casings shall be composed of materials of sufficient durability to withstand any conditions to which they may be exposed.

**AMENDATORY SECTION** (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-220 PIPELINES—APPURTENANCES. (1) Vents shall be required for casings, tunnels and galleries enclosing carriers of fuel where required by CFR 49, Part 192, Minimum Federal Safety Standards. Vent standpipes shall be located and constructed so as not to interfere with maintenance of the highway nor to be concealed by vegetation; preferably they should stand by a fence or on the right of way line.

(2) Drains shall be required for casings, tunnels, or galleries enclosing carriers of liquid, liquefied gas or heavy gas. Drains may outfall into the roadway ditch or natural water course at locations approved by the department. The outfall shall not be used as a wasteway for purging the carrier unless specifically authorized by the department.

(3) Marker location and emergency information shall be conspicuously marked for all pipelines, using color if necessary to contrast with the environment. They should be provided at one end of a normal crossing, at both ends of an oblique crossing and at five hundred foot intervals along a longitudinal installation. Markers shall include pipeline identification and station; owner of the pipeline; and telephone number or other means of contact with local office. Markers may also include depth of cover, size, pressure and contents of carrier, and potential of ducted wires and cables.

(4) Manholes shall not be located in the pavement or shoulders of any access controlled highway. Manholes should be designed and located in such a manner that will cause the least interference to other utilities and future highway expansion.

(5) Automatic shut-off valves shall be installed in line at or near ends of structures, near unusual hazards, unless the hazardous segments can be isolated by other sectionalizing devices within a reasonable distance.

(6) Above-ground appurtenances shall be located to comply with the ~~((clear roadside policy))~~ control zone guidelines.

**AMENDATORY SECTION** (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-250 PIPELINES—INSTALLATION. Installation or replacement of pipelines along or crossing highways shall ordinarily be controlled by end-product specifications. However, to insure safety of traffic and preservation of the earth structure supporting the pavement, any required construction shall be in accordance with the following controls:

(1) Trenched construction and backfill. The essential features for trench and backfill construction are:

(a) Restoration of the structural integrity of entrenched roadbed.

(b) Security of the pipe against deformation likely to cause leakage.

(c) Assurance against the trench becoming a drainage channel or against drainage being blocked by the backfill.

(2) Trenched construction – bedding and backfill.

(a) Trenches shall be cut to have vertical faces, where soil and depth conditions permit, with a maximum width of outside diameter of pipe plus two feet. Shoring shall comply with the department of labor and industries safety code for construction and/or as directed by the department.

(b) Bedding shall be provided to a depth of six inches or half the diameter of the pipe, whichever is least. Bedding should consist of granular material free of lumps, clods, stones, and frozen material. Bedding shall be graded to a firm but yielding surface without abrupt change in bearing value. Unstable soils and rock ledges should be subexcavated from the bedding zone and replaced with suitable material or as directed by the department. The bottom of the trench should be prepared to provide the pipe with uniform bedding throughout the length of the installation.

(c) Backfill shall be placed in two stages:

(i) Sidefill to the level of top of pipe.

(ii) Overfill to former grade surface. Sidefill and overfill shall consist of granular material laid in six-inch layers, each consolidated by mechanical tamping and controlled addition of moisture, to a density of ninety-five percent ~~((as determined by AASHTO Method T-99))~~ in accordance with the current Standard Specifications for Road, Bridge, and Municipal Construction. Consolidation by saturation or ponding is not permitted. Backfilling and methods of compaction should be adapted to achieve prompt restoration of traffic. Additional cutback of base and surfacing and transitioning of trench shoulders to minimize later development of sag in the grade of the pavement over the trench shall be as directed by the department.

(3) Untrenched construction shall be required on all pipeline crossings of limited access highways and:

(a) The width of untrenched construction shall extend a minimum of six feet outside the roadway prism.

(b) Pipelines installed under a highway without disturbing the surface shall be made using a technique approved by the department.

(c) The size of the opening shall not exceed five percent oversize in diameter. Backfill is required for pipes over twelve inches in diameter.

(d) Overbreaks, unused holes, or abandoned casings shall be backfilled as directed by the department.

**AMENDATORY SECTION** (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-290 VERTICAL CLEARANCE. The vertical clearance for overhead power and communication lines above the highway and the lateral and vertical clearance from bridges shall conform with the National Electrical Safety Code and/or with the clearances as shown below, whichever is greater.

TYPE OF UTILITY LINE	LINES	
	CROSSING ROADWAYS	LONGI-TUDINAL
Communications <u>and Cable Television</u>	24'	20'
Communications <u>and/or Cable Television joint usage with electrical</u>	20'	20'
ELECTRICAL		
0 - 750 volts	24'	24'
751 - 15,000 volts	30'	27'
15,001 - 50,000 volts	32'	32'
50,001 volts & over	34'	32'

(1) The minimum height of highway crossing shall be measured from the ((high)) point of the roadway directly under the crossing.

(2) The minimum height of longitudinal lines shall be measured from ground line.

(3) All clearances shall be at State Electrical Construction Code Temperature and loading standards, and comply with all other requirements of this code.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-300 OVERHEAD LINES—LOCATION. (1) ((As a minimum,)) Pole lines ((should) must be located ((outside the clear roadside area for the highway section involved)) in accordance with the control zone guidelines.

(2) Guy wires to ground anchors and stub poles ((should not) shall be ((placed between a pole and the traveled way where they encroach on the clear roadside area)) located in accordance with the control zone guidelines.

(3) Where irregular shaped portions of the right of way extend beyond the normal right of way limits, variances in the location from the right of way line should be allowed as necessary to maintain a reasonably uniform alignment for longitudinal overhead and underground installations.

(4) On and along conventional highways, poles and related facilities should be located as near as practicable to the right of way line.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-320 CONVERSION TO UNDERGROUND OR RELOCATION OF OVERHEAD LINES—RESPONSIBILITY. Consistent with existing statutes and the necessity for protecting roadside appearance and removal or relocation of existing aerial lines within certain areas, the following methods of sharing cost responsibility shall pertain under various circumstances.

(1) Where an aerial utility line exists under franchise and for ((aesthetic)) reasons of visual quality the department desires undergrounding or aerial relocation

during the life of the franchise to serve the highway purpose, the department will pay the cost of the new facility, plus cost of removal of the old plant, less a credit for depreciation and salvage on the replaced plant.

(2) For new franchises for new utility lines where none presently exist and where the department determines on the basis of scenic classification (WAC 468-34-330) that the facilities shall be placed underground, the entire cost shall be borne by the utility.

Where a franchise is to be amended or has been renewed for the first time after the effective date (August 20, 1974) of this policy revision and the department determines on the basis of scenic classification (WAC 468-34-330) that the facility should be placed underground or relocated aerially, the cost for such undergrounding or relocation shall be borne by the utility. Such undergrounding or relocation shall occur at the time of reconstruction of the line by the utility or at a time determined by the utility within the renewal period, whichever occurs first.

(3) Within the limits of projects for highway construction where the utility occupies the right of way by right of franchise and where the department determines on the basis of scenic classification (WAC 468-34-330) that the facility should be placed underground or, based on design and/or location considerations the facility may be relocated aerially, the cost responsibilities shall be determined as follows:

(a) The utility shall be responsible for the full cost of that portion of the existing aerial facility that must be relocated within the physical limits of construction.

(b) The department will pay the cost of the new facility, plus the cost of removal of the old plant less a credit for depreciation and salvage on the replaced plant, for that portion of aerial line not physically affected by the highway construction.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution No. 13, filed 12/20/78)

WAC 468-34-340 MISCELLANEOUS. (1) Preservation, restoration and cleanup

(a) Disturbed areas - The size of the disturbed area shall be kept to a minimum. Restoration methods shall be in accordance with the specifications and/or special provisions of the permit or franchise. Unsatisfactory restoration work shall be promptly redone by the utility. If necessary, ((unsatisfactory)) restoration work ((may be accomplished)) that is not acceptable to the department, may be repaired by the department and billed to the utility company.

(b) Drainage - Care shall be taken in utility installations to avoid disturbing existing drainage facilities. Underground utility facilities should be backfilled with pervious material and outlets provided for entrapped water. Underdrains should be provided where necessary. No jetting or puddling shall be permitted under the roadway.

(c) Spraying, cutting and trimming of trees - The indiscriminate cutting of trees or disfiguring of any feature of scenic value shall not be permitted. The utility shall repair or replace in kind any tree or shrub removed or

disfigured when such is not necessary for the utility installation.

(d) If chemical sprays are used to kill weeds and brush, they shall comply with currently applicable federal and state department of agriculture regulations and the following:

(i) A special permit issued by the department shall be required.

(ii) Brush and trees thirty inches or higher shall be close cut and treated with spray to kill the roots and stumps.

(iii) Brush shall be disposed of by chipping or ((burning)) removal from the right of way.

(iv) Brush and weeds thirty inches or less in height may be treated with a chemical spray. After the brush and weeds have died, they shall be immediately removed to prevent a serious fire hazard.

(v) The utility shall be responsible for any drift of the spray that contacts vegetation on private property adjacent to the highway.

(vi) Ingredients that are toxic to livestock, game animals or fowls shall not be used.

(e) Refuse and debris shall be disposed of to the satisfaction of the department.

(2) Safety and convenience

(a) Traffic controls including detours for utility construction and maintenance shall conform with currently applicable "Manual on Uniform Traffic Control Devices for Streets and Highways." All construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways construction operations interfering with traffic shall not be allowed during periods of peak traffic flow. Work shall be planned so that closure of intersecting streets, road approaches or other access points is held to a minimum. Adequate provisions shall be made to safeguard any open excavation to include barricades, lights, flagmen, or other protective devices as may be necessary.

(b) All utility facilities shall be kept in good state of repair both structurally and from the standpoint of appearance. The permit or franchise shall specify the maintenance operations which are permitted and the required notification to the department before any work is accomplished. Vehicle parking and the storage of materials on through roadways or ramps shall not be allowed.

(c) If emergency repairs are required, such repairs shall be undertaken and notice given immediately and approval as to the manner of repair secured as soon as possible. The utility shall confine its operations as much as possible to the nontraveled portion of the right of way and shall exercise caution to protect the traveling public during such repairs. Flagmen, warning lights, barricades, and signs shall be employed in accordance with currently applicable Manual on Uniform Traffic Control Devices for Streets and Highways, and Manual for Emergency Traffic Control for Protection of Men and Equipment.

NEW SECTION

WAC 468-34-350 CONTROL ZONE GUIDELINES. Consistent with federal, state, or local laws or

regulations all utility installations within the highway right of way shall be located in accordance with the control zone guidelines. The control zone guidelines govern the location of utilities within the right of way for the following:

(1) New installations or reconstruction.

(2) Highway projects involving safety improvements.

(3) Franchise renewal or consolidation of existing utility objects.

**WSR 89-05-023**

**EMERGENCY RULES**

**DEPARTMENT OF NATURAL RESOURCES**

[Order 558—Filed February 10, 1989]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the suspension of outdoor burning privileges without a written burning permit on all lands protected by the department in Whatcom County.

I, Brian J. Boyle, 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 dry weather and warm dry winds have increased fire danger and have prompted the need to restrict the use of fire to protect life and property.

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

This rule is promulgated pursuant to RCW 76.04.015 and 76.04.315 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1989.

By Brian J. Boyle  
Commissioner of Public Lands

NEW SECTION

WAC 332-26-095 OUTDOOR BURNING RESTRICTIONS Effective immediately, Friday, February 10, 1989, through Wednesday, March 1, 1989, privileges to have an outdoor fire without a written burning permit, as allowed by WAC 332-24-211, on lands protected by the Department in Whatcom County is suspended: Provided, that fires contained in established campfire pits approved by the Department in state, county, municipal or other campgrounds, and the use of barbecues or camp stoves in state, county, municipal or other campgrounds are exempt from these restrictions.

**WSR 89-05-024**  
**ADOPTED RULES**  
**GAMBLING COMMISSION**  
 [Order 186—Filed February 13, 1989]

Be it resolved by the Washington State Gambling Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to the amending of WAC 230-12-050, 230-40-070, 230-20-325 and 230-20-699; and new sections WAC 230-12-053 and 230-02-500.

This action is taken pursuant to Notice Nos. WSR 88-22-018 and 88-23-093 filed with the code reviser on October 24, 1988, and November 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 9.46.070 (11)(14) and [9.46.]0218 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1989.

By Ronald O. Bailey  
 Director

AMENDATORY SECTION (Amending Order 51, filed 4/30/76)

WAC 230-12-050 ((NØ)) EXTENSION OF CREDIT ((TO BE ALLOWED)), LOANS, OR GIFTS PROHIBITED, LIMITED EXCEPTION. No licensee, ~~((or any of its members or employees, or any operator, conducting, or in any way participating in the conduct of any of the activities which are authorized by RCW 9.46.030 or by commission rule;))~~ member or employee thereof shall ~~((allow a person to play that activity on credit, or shall grant))~~ extend credit, make a loan, or grant a gift ~~((of any kind at any time))~~ to any person playing ~~((the))~~ in an authorized activity~~((:)),~~ or which enables a person to play in an authorized activity. ~~((When a person is charged))~~ The consideration ~~((for the privilege of playing the activity that consideration))~~ required to participate in the activity shall be collected in full, by cash or check, ~~((in advance. Provided, That t))~~ prior to participation. Provided, this prohibition shall not apply to the following situations:

(1) The consideration paid for the opportunity to play a punchboard or pull tab series may be collected immediately after the play is completed only when such consideration is ~~((five))~~ ten dollars or less~~((: Provided further, That where));~~ or

(2) When a bona fide charitable or bona fide nonprofit organization conducting any of the activities authorized by RCW 9.46.030 or commission rules has a regular billing system for all of the activities of its members with such organization, such billing system may be utilized in connection with the playing of any of the activities authorized hereunder if:

~~((t))~~ (a) The playing of such activity is limited to regular members of such organization who have become regular members prior to the commencement of such activity and whose qualifications for membership were not dependent upon, or in any way related to, the playing of such activity; and

~~((z))~~ (b) The commission has given its prior written consent to the use of such billing system in connection with the conduct of activities authorized under these rules.

NEW SECTION

WAC 230-12-053 ACCEPTANCE OF CHECKS - REQUIREMENTS. (1) A licensee, member, or employee thereof may accept a check in lieu of cash from a player for activities authorized by 9.46 RCW, when the following requirements are met:

(a) The check is not a third party check drawn on an individual's personal account or a counter check offered by the licensed establishment;

(b) Any personal check must be dated the same day it is offered to the licensee and fully negotiable upon acceptance by the licensee; and

(c) The check is not from a player who has a balance owed to the licensee from a previous returned personal check. Provided: this shall not apply to a licensee who utilizes a check guarantee and collection service.

(2) If a licensee, member or employee thereof accepts a check that does not comply with the requirements set forth above, the licensee shall be deemed to have extended credit in violation of WAC 230-12-050.

AMENDATORY SECTION (Amending Order 158, filed 6/13/86)

WAC 230-40-070 LICENSEE TO FURNISH ALL CARDS, CHIPS AND OTHER SERVICES. Each licensee shall furnish the following items and services in connection with all card games conducted on its premises at no additional charge to the players:

(1) Chips. Chips for use in wagering shall be of generally conventional size and design. Chips furnished by a licensee shall be so designed that they are readily identifiable as having been furnished by that particular licensee.

(2) Cards or mah-jongg tiles. The deck, or decks of cards being used at a given table where any poker game is being played shall be changed at a minimum every half hour by the licensee.

Playing cards or mah-jongg tiles furnished shall be of generally conventional size and design. Playing cards or tiles that have been shaved, sanded, cut, carved, or otherwise marked in any manner which may make certain cards or tiles identifiable to players other than as allowed by the rules of the particular game are prohibited.

(3) Bank services. The licensee shall sell its chips to all players desiring to buy them not in excess of any limits set by the commission and redeem all chips at the value for which they were sold. The value at which the various types of chips are sold and redeemed shall be conspicuously posted and visible to each person prior to

that person purchasing chips. Money taken in on chips sold shall be kept separate and apart from all other money received by the licensee.

(4) Chips may be sold for cash only and no credit of any nature shall be extended by an operator to a person purchasing chips: Provided, That an operator may accept a ~~((personal)) check ((written on an account of a person purchasing chips in lieu of cash, but only when the check is complete and in an amount equal to the value of the chips being purchased at that time)) in accordance with WAC 230-12-053. Counter checks are ((not acceptable as a personal check)) prohibited. Each receipt by a person of a quantity of chips from the operator shall be a separate transaction for the purpose of this rule. ((Personal e)) Checks received for chips retained by the operator after close of business shall be deposited by the operator not later than the second day following receipt upon which the operator's bank is open for business.((3))~~

(5) No licensee shall allow any cards or chips not furnished by the licensee on that business day to be used in any card game conducted upon its premises. No licensee shall allow any other person to buy or sell chips for use in card games upon its premises nor provide any other item or service for use in connection with the game.

#### NEW SECTION

WAC 230-02-500 DRAWING DEFINED. A drawing is defined as an approved random selection process for determining winners in a raffle. To be random, each ticket in the drawing must have an equal chance of selection.

AMENDATORY SECTION (Amending Order 183, filed 9/13/88)

WAC 230-20-325 MANNER OF CONDUCTING A RAFFLE. All raffles shall be conducted by selling individual prenumbered tickets for not more than five dollars and awarding prizes by selecting winners by a random drawing from among all tickets sold. The following operating procedures apply:

(1) All tickets for use in any raffle shall be consecutively numbered and each ticket shall be accounted for separately in accordance with WAC 230-08-070. Raffle tickets sold to the general public shall have a stub or other detachable section bearing a duplicate number corresponding to the number on the ticket: Provided, that with prior written Director approval, tickets may include any consecutively numbered or lettered object if a stub imprinted with an identical number or letter and all other information required by WAC 230-20-325, is provided to each entrant at the time of purchase.

(2) All prizes available, whether 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. This information shall be printed upon each ticket sold, or shall be otherwise provided in writing to each purchaser at the time of sale and shall also include, but not be limited to, date and time of drawing, location of drawing, and name of organization conducting raffle.

(3) No person shall be required to pay, directly or indirectly, more than \$5.00 in order to enter any raffle. After April 15, 1990, each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle. No free tickets, or any opportunity to participate in the drawing of any raffle, shall be awarded or given to a person as a prize or reward for selling raffle tickets or for purchasing a certain number of raffle tickets. No person shall be required to obtain more than one ticket or to pay for anything other than the ticket, in order to enter the raffle: Provided, That licensed raffles conducted among members of the organization only, may be conducted using alternative sales methods if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request.

(4) From October 15, 1988, through April 15, 1990, each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle. However, the sponsor may provide to a purchaser of a raffle ticket an opportunity to obtain by random method a discount on such a ticket, including the opportunity to obtain that ticket free, but only if the sponsor maintains records for each book of raffle tickets so that income from the sale of tickets in each book can be audited.

(5) If an entrant is required to be present at a raffle drawing in order to be eligible for the prize drawing, then a statement setting forth this condition shall be set forth conspicuously on each raffle ticket and on all promotional material concerning the raffle. When the participant is not required to be present at the drawing the ticket stub or other detachable section(s) of the ticket shall contain the purchaser's name, complete address, and telephone number, and shall be maintained for a period of not less than three years from the end of the fiscal year in which the raffle was completed.

(6) In conducting a drawing in connection with any raffle, each ticket seller shall return to the licensee the stubs or other detachable section of all tickets sold. The licensee shall then place each stub or other detachable section of each ticket sold into a receptacle out of which the winning tickets are to be drawn. Such receptacle shall be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn. Provided, an alternative drawing format to determine the winning ticket may be utilized if such format is approved by the Director in writing prior to the sale of any ticket. The following requirements must be met prior to utilizing any such alternative drawing format:

(a) The alternate format must meet the definition of a drawing as defined by WAC 230-02-500;

(b) Any alternate format utilized to determine the winners must be closely controlled by the licensee;

(c) The request to utilize an alternative drawing format shall contain, at a minimum, the following information:

(i) The time, date and location of the drawing;

(ii) The type of random selection process to be used and complete details of its operation;

(iii) The name and telephone number of the raffles manager; and

(iv) The signature of the organization's chief executive officer.

(7) The raffle license issued by the commission or a photostatic copy of the license shall be conspicuously posted and displayed at the location at all times during the occasion when a drawing is being conducted.

**AMENDATORY SECTION** (Amending Order 176, filed 4/13/88)

WAC 230-20-699 SPECIAL AMUSEMENT GAME LICENSE - TEST AT LIMITED LOCATIONS. (1) Beginning June 1, 1988, the commission will conduct a twelve month test to determine the feasibility of allowing the operation of electronic crane and other self-dispensing amusement games at selected locations. For the purposes of this test, operators allowed to participate will be divided into three groups:

(a) Those applicants that possess a valid license from the Washington State Liquor Board and prohibit minors on their premises; and

(b) Those locations that are frequented by minors to participate in activities other than the playing of amusement devices, limited to movie theaters, bowling alleys, and miniature golf course facilities; and

(c) Those applicants who operate adult-supervised family amusement centers in enclosed shopping centers which prohibit minors from entry during school hours, maintain full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and which close at the same time as surrounding businesses within enclosed shopping centers.

(2) This test shall be conducted using the following rules and limitations:

(a) Each participant shall be required to obtain a class B through E "special location amusement game" license as set forth in WAC 230-04-201. For the purposes of this test, the operator of the business where the coin operated amusement game(s) is located and operated shall be licensed. If the amusement game(s) is owned by someone other than the premises operator, that person(s) shall also obtain a license;

(b) Licenses issued under this test will not be subject to the limitations as specified in WAC 230-20-380 and WAC 230-12-230;

(c) The maximum fee to play shall be \$1.00 per game at the locations specified in (1)(a) above, and 25 cents at the locations specified in (1)(b) and (c) above;

(d) The operator(s) cost for each merchandise prize offered shall be equal to or greater than the amount wagered per game;

(e) Prior to being put out for play, all games must be submitted to the Commission staff for testing and for ultimate approval by the Commission. Provided: The Director may approve electronic cranes for use in this test that meet the standards set for in WAC 230-20-605 (2)(b);

(f) All games must be equipped with non-resettable "coin-in meters" to measure the gross revenue of each game;

(g) All games must have affixed a certification and identification stamp issued by the Commission. Each stamp shall cost \$30. Any such game located in an area authorized under 1(a), (b), or (c) which does not have this stamp attached, or licensed under this rule, shall be prima facie evidence of an unauthorized game being used and shall subject said game to immediate seizure and forfeiture under RCW 9.46.230;

(h) Such games shall not be subject to the prohibition on revenue sharing set forth in WAC 230-12-220; and

(i) All operators shall complete and submit a "special coin operated amusement game test" report, in a format provided by the Commission, on a monthly basis. This report shall be submitted no later than 15 days following the end of each month:

(3) This test shall expire on May 30, 1989, or at a earlier date if the Commission determines that it is in the public interest; Provided, That for the purposes of this test, effective November 21, 1988, the Commission shall not accept any further applications. At the end of the test period the Commission shall evaluate the test results and determine whether the limited locations contained in WAC 230-20-380 should be expanded for self-dispensing amusement games.

**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 89-05-025**

**EMERGENCY RULES**

**GAMBLING COMMISSION**

[Order 187—Filed February 13, 1989]

Be it resolved by the Washington State Gambling Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to the amending of WAC 230-20-699.

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 we need this rule to be kept in effect until the permanent rule becomes effective.

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 is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1989.

By Ronald O. Bailey  
Director

AMENDATORY SECTION (Amending Order 176, filed 4/13/88)

WAC 230-20-699 SPECIAL AMUSEMENT GAME LICENSE - TEST AT LIMITED LOCATIONS. (1) Beginning June 1, 1988, the commission will conduct a twelve month test to determine the feasibility of allowing the operation of electronic crane and other self-dispensing amusement games at selected locations. For the purposes of this test, operators allowed to participate will be divided into three groups:

(a) Those applicants that possess a valid license from the Washington State Liquor Board and prohibit minors on their premises; and

(b) Those locations that are frequented by minors to participate in activities other than the playing of amusement devices, limited to movie theaters, bowling alleys, and miniature golf course facilities; and

(c) Those applicants who operate adult-supervised family amusement centers in enclosed shopping centers which prohibit minors from entry during school hours, maintain full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and which close at the same time as surrounding businesses within enclosed shopping centers.

(2) This test shall be conducted using the following rules and limitations:

(a) Each participant shall be required to obtain a class B through E "special location amusement game" license as set forth in WAC 230-04-201. For the purposes of this test, the operator of the business where the coin operated amusement game(s) is located and operated shall be licensed. If the amusement game(s) is owned by someone other than the premises operator, that person(s) shall also obtain a license;

(b) Licenses issued under this test will not be subject to the limitations as specified in WAC 230-20-380 and WAC 230-12-230;

(c) The maximum fee to play shall be \$1.00 per game at the locations specified in (1)(a) above, and 25 cents at the locations specified in (1)(b) and (c) above;

(d) The operator(s) cost for each merchandise prize offered shall be equal to or greater than the amount wagered per game;

(e) Prior to being put out for play, all games must be submitted to the Commission staff for testing and for ultimate approval by the Commission. Provided: The Director may approve electronic cranes for use in this test that meet the standards set for in WAC 230-20-605 (2)(b);

(f) All games must be equipped with non-resettable "coin-in meters" to measure the gross revenue of each game;

(g) All games must have affixed a certification and identification stamp issued by the Commission. Each stamp shall cost \$30. Any such game located in an area authorized under 1(a), (b), or (c) which does not have this stamp attached, or licensed under this rule, shall be prima facie evidence of an unauthorized game being used and shall subject said game to immediate seizure and forfeiture under RCW 9.46.230;

(h) Such games shall not be subject to the prohibition on revenue sharing set forth in WAC 230-12-220; and

(i) All operators shall complete and submit a "special coin operated amusement game test" report, in a format provided by the Commission, on a monthly basis. This report shall be submitted no later than 15 days following the end of each month:

(3) This test shall expire on May 30, 1989, or at a earlier date if the Commission determines that it is in the public interest: Provided, That for the purposes of this test, effective November 21, 1988, the Commission shall not accept any further applications. At the end of the test period the Commission shall evaluate the test results and determine whether the limited locations contained in WAC 230-20-380 should be expanded for self-dispensing amusement games.

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 89-05-026****ADOPTED RULES****DEPARTMENT OF ECOLOGY**

[Order 88-53—Filed February 13, 1989]

I, Carol Jolly, assistant director of the Water and Shoreland Programs, do promulgate and adopt at the Department of Ecology, Headquarters, Lacey, Washington, the annexed rules relating to interim wastewater discharge permit fees, chapter 173-223 WAC.

This action is taken pursuant to Notice No. WSR 88-24-056 filed with the code reviser on December 7, 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 Department of Ecology as authorized in chapter 43.21A RCW.

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

APPROVED AND ADOPTED February 13, 1989.

By Carol Jolly  
Assistant Director

AMENDATORY SECTION (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-223-015 PURPOSE AND AUTHORITY. It is the purpose of this chapter to establish an interim fee system for permits issued by the department of ecology pursuant to RCW 90.48.160, 90.48.162, and 90.48.260. This fee system is subject to change in fiscal year 1990 and beyond. ((RCW 90.48.610)) Initiative 97 authorizes the department to charge fees to recover ((administrative)) expenses incurred in the issuance and administration of wastewater discharge permits. All fees



charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Annual ((operating)) fees shall be ((based on seven fee eligible categories listed in RCW 90.48-600)) established in amounts to fully recover and not exceed expenses incurred by the department in:

- (1) Processing permit applications and modifications;
- (2) Monitoring and evaluating compliance with permits;
- (3) Conducting inspections;
- (4) Securing laboratory analysis of samples taken during inspections;
- (5) Reviewing required plans and documents directly related to operations of permittees;
- (6) ~~((Monitoring compliance with))~~ Overseeing performance of delegated pretreatment programs; and
- (7) Supporting the overhead expenses that are directly related to each of the preceding activities. Expenses start when a permit application is filed with the department of ecology.

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-223-030 DEFINITIONS. (1) "Annual fee" means the fee which is paid annually based on the state's fiscal year (July 1 to June 30).

(2) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3).

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology or authorized representative.

(5) "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.

(6) "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.

(7) "EPA" means the United States Environmental Protection Agency.

~~((6))~~ (8) "GPD" means permitted flow expressed in gallons per day.

~~((7))~~ (9) "Gross revenue" means gross receipts from monthly, bimonthly, and/or quarterly user charges for sewer services. Gross revenue includes user charges received from all classes of customers. Gross revenue includes all user charges and fees based on wastewater constituents' strengths and characteristics. Included among such charges and fees are surcharges for high-strength wastes and charges based on biochemical oxygen demand, suspended solids, oil and grease, toxicants, heavy metals, flow, etc. Gross revenue includes charges for receipt and treatment of septic tank wastes, holding tank wastes, chemical toilet wastes, etc. Gross revenue includes amounts received from other municipalities for sewage interception, treatment, collection, or disposal.

The following items are not included in gross revenue:

(a) Amounts derived by municipalities directly from taxes levied for the support or maintenance of sewer services.

(b) Late charges, penalties for nontimely payment by customers, interest on late payments, and all other penalties and fines.

(c) Permit fees and compliance monitoring fees for wastewater discharge permits issued by municipalities with local pretreatment programs. Permit fees which are charged to cover the cost of providing sewer service are not excluded from gross revenue.

(d) Receipts by a municipality of special assessments or installments thereof and interests and penalties thereon, and charges in lieu of assessments.

(e) Connection charges.

(f) Revenues from sales of by-products such as sludge, processed wastewater, etc.

(10) "Industrial facility" means any facility not included in definition of "municipal/domestic facility."

~~((8))~~ (11) "Major facility" means any NPDES permitted facility or activity classified as such by the Region 10 administrator of the Environmental Protection Agency in conjunction with the director as published in the state-EPA agreement for fiscal year 1988. Other facilities may be classified by agreement between EPA and the department based on EPA criteria following submittal of an application for a new source permit or permit modification.

~~((9))~~ (12) "MGD" means permitted flow expressed in million gallons per day.

~~((10))~~ (13) "Municipal/domestic facility" means a publicly-owned facility treating domestic wastes together with such industrial wastes as may be present, or a privately-owned facility treating domestic wastes.

~~((11))~~ (14) "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 U.S.C. Sec. 1288. State government agencies are not included in this definition.

(15) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product, and which does not contain chemicals added by the permittee.

~~((12))~~ (16) "NPDES permit" means the National Pollutant Discharge Elimination System permit issued by the department pursuant to section 402 of the Federal Clean Water Act and RCW 90.48.260.

~~((13))~~ (17) "Permit fee" means that fee charged by the department of ecology for expenses associated with the activities specified in WAC 173-223-015.

~~((14))~~ (18) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

~~((15))~~ (19) "Permitted flow" means:

(a) For municipal/domestic facilities, the monthly average flow limitation contained in the permit;

(b) For industrial facilities, the daily maximum flow limitation contained in the permit;

(c) For permits in which a flow limit is not specified, the department shall use the design flow corresponding to (a) or (b) of this subsection.

~~((+6))~~ (20) "Residential equivalent" means((:

~~(a) For residential hookups, a single family residential unit, and for industrial or commercial hookups, a flow quantity of two hundred fifty gallons per day, or a biochemical oxygen demand quantity of 0.5 pounds per day, or a total suspended solids quantity of 0.5 pounds per day whichever basis yields the highest number, or~~

~~(b) A definition of residential equivalent submitted by the permittee and approved by the department that yields substantially similar results to (a) of this subsection.~~

~~(+7)) a single-family residence or a unit of sewer service that yields an amount of gross revenue equal to the annual user charge for a single-family residence. In cases where the permit holder does not maintain data on gross revenue, user charges, and/or the number of single-family residences that it serves, "residential equivalent" means an influent flow of two hundred fifty gallons per day.~~

(21) "Sewer service" means the activity of receiving sewage deposited into and carried off by a system of sewers, drains, and pipes to a common point, or points, for disposal or for transfer to treatment for disposal, and activities involving the interception, transfer, storage, treatment, and/or disposal of sewage, or any of these activities.

(22) "State waste discharge permit" means a permit required under chapter 173-216 WAC.

**AMENDATORY SECTION (Amending Order 88-8, filed 5/26/88, effective 7/1/88)**

**WAC 173-223-040 PERMIT FEE SCHEDULE. Tables 1, 2, and 3.**

- (1) Industrial categories.
- (2) Municipal/domestic categories.
- (3) Special primary industry categories.

Table 1

INDUSTRIAL CATEGORIES	ANNUAL PERMIT FEE
Major industries listed in Table 3	\$ 31,000
Major industries not listed in Table 3	\$ 8,000
Minor industries listed in Table 3	\$ 7,000
with permitted flows > 10,000 GPD	
Minor industries not listed in Table 3	\$ 2,500
with permitted flows > 10,000 GPD	
Minor industries listed in Table 3	\$ 2,000
with permitted flows < 10,000 GPD	
Minor industries not listed in Table 3	\$ 600
with permitted flows < 10,000 GPD	
Minor industries not listed in Table 3	\$ 500
discharging noncontact cooling water only	
Hatcheries/fish rearing/aquaculture	\$ 1,500
Water treatment plants	\$ 1,250
Concentrated animal feeding operations	\$ 1,000

INDUSTRIAL CATEGORIES	ANNUAL PERMIT FEE
General permits	70% of fee category in which they would otherwise belong
Industries with permitted flows ≤ 800 GPD	\$ 150

Table 2  
MUNICIPAL/DOMESTIC

Permitted Flows	Minor Facility	Major Facility	Facility w/Pretreatment*
> 100 MGD	—	—	\$35,000
50 MGD to < 100 MGD	—	—	\$25,000
25 MGD to < 50 MGD	—	—	\$20,000
10 MGD to < 25 MGD	—	\$12,000	\$15,000
5 MGD to < 10 MGD	\$7,500	\$10,000	\$12,000
1 MGD to < 5 MGD	\$6,000	\$ 8,000	\$ 9,000
.5 MGD to < 1 MGD	\$4,500	\$ 6,000	—
.1 MGD to < .5 MGD	\$2,500	—	—
.05 MGD to < .1 MGD	\$1,000	—	—
.008 MGD to < .05 MGD	\$ 500	—	—
≤ .008 MGD	\$ 150	—	—

\*Municipal/domestic facilities with delegated pretreatment programs as authorized by the Federal Water Pollution Control Act.

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 and 90.48.260 is the lesser of:

- (i) The fee assigned to the facility by Table 2;
- (ii) Five cents times the number of months in the period for which the permit fee is collected times the number of residential equivalents which contribute to the domestic wastewater facility (\$ .05 x a months x # of residential equivalents).

(b) The annual permit fee for each permit held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260 and which treats each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is the lesser of:

- (i) The sum of the fees assigned to the facilities by Table 2;
- (ii) Five cents times the number of months in the period for which the permit fee is collected times the number of residential equivalents which contribute to the municipality's wastewater system.

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Fees charged for the period March 1, 1989, through June 30, 1989, shall equal one-third of the annual fee calculated pursuant to (a), (b), (c) or (d) of this subsection.

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to the other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if a facility charges different municipalities differing single-family residential user charges, the permit holder may divide the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers. In either case ((f)(iii)(A) or (B) of this subsection), the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (e)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(v) If the facility received a permit fee reduction in accordance with WAC 173-223-090(3) for its fiscal year 1989 permit fee, the facility may use the residential

equivalent count that was made in determining that fee reduction as the number of residential equivalents.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by a responsible corporate officer;

(B) In the case of a partnership, by a general partner;

(C) In the case of a sole proprietorship, by the proprietor;

(D) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements in its form, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

Table 3  
Special Industrial Categories

Adhesives and sealants  
Aluminum forming  
Battery manufacturing and recycling  
Coal mining  
Coil coating  
Copper forming  
Electrical and electronic components  
Electroplating  
Explosives  
Gum and wood chemicals  
Inorganic chemicals manufacturing  
Iron and steel manufacturing  
Leather tanning and finishing  
Metal finishing  
Metal molding and casting  
Nonferrous metals forming and metal powders  
Nonferrous metals manufacturing  
Nuclear fuels  
Ore mining and dressing  
Organic chemicals manufacturing  
Paint and ink formulation  
Pesticides  
Petroleum refining  
Pharmaceutical manufacturing  
Plastics molding and forming  
Plastic and synthetic materials manufacturing  
Porcelain enameling  
Printing and publishing

Table 3  
Special Industrial Categories

Pulp, paper, and paperboard  
Rubber manufacturing  
Shipyards  
Soap and detergent manufacturing  
Steam electric power plants  
Solid waste disposal sites  
Tank cleaning and barrel reclamation  
Textile mills  
Timber products processing

AMENDATORY SECTION (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-223-050 PERMIT FEE PAYMENTS.  
(1) Permit fee computation. Computation of fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48-.200, computation shall begin on the sixty-first day after the department receives an application. Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated.

(2) The department shall charge fees based on the annual fee schedule contained in WAC 173-223-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Fee payment shall be due and payable thirty days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis(~~and may adjust fees downward from the fee schedule if necessary to assure that total fees collected are within the maximum amount allowed under RCW 90.48.600 (three million six hundred thousand dollars per year))~~). In cases where a permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee accordingly. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(3) Delayed payment. In cases where payment of the total amount of fee charges, by the due date specified in this subsection, would cause substantial economic hardship, a permit holder may request that the department allow delayed payment. Such a request must be submitted to the department's fiscal office in writing by the permit's payment due date, and must include information demonstrating that such a hardship would occur. The department may approve such a request provided that the permit holder enters into a written agreement with the department to pay the fee charges and interest

as specified in WAC 173-223-030, according to a specific delayed schedule, and that all fee and interest charges shall be paid in full by the fifteenth day of the last month of the year for which the fee is due.

(4) The applicable permit fee shall be paid by check or money order payable to the department of ecology, and mailed to the Department of Ecology, Fiscal Office, Mailstop PV-11, Olympia, Washington 98504.

(5) In the event checks are returned due to insufficient funds, fees shall be deemed not to have been paid.

(6) Interest due on delinquent or delayed accounts. The department shall charge permit holders interest on fee charges that have not been paid by the due date at the rate of ten percent per annum, compounded monthly. Interest charges shall be due and payable in the same manner as fees, and nonpayment of interest charges shall be deemed as nonpayment of fees for purposes of collection and enforcement.

(7) Enforcement for nonpayment. If a permit holder has failed to pay fee charges that are due and payable, the department shall give notice of intent to terminate the permit after thirty days in accordance with RCW 90.48.190 unless fee and interest charges are paid in full within that time. Such notice shall be given by certified mail or by personal delivery, and shall state the exact amount due and the date by which the charges must be paid. If the full payment is not received by the department by the specified date, the department shall promptly issue an order terminating the permit. Such order shall be transmitted by certified mail or by personal delivery. Following termination of a permit, if the activity requiring a permit continues, the department shall either commence issuing civil penalties under RCW 90.48.144, or shall file an action to enjoin the activity previously authorized by the permit in a court of jurisdiction, or both. Civil penalties issued by the department shall be sufficiently large to offset the economic benefit gained from nonpayment of fees and to deter continued operation and/or nonpayment. Payment of civil penalties shall not be deemed as payment of fees, nor shall payment of fees after assessment of penalties be deemed as a cause for reducing the penalty: PROVIDED, That the department may reduce or set aside penalties upon a determination that it made a factual error or errors in assessing the penalty. Nothing herein shall be interpreted as restricting the authority of the department to exercise its other enforcement remedies as authorized by law.

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-223-070 CREDITS. Any public entity engaging in comprehensive monitoring programs may apply for credits against permit fees. The full amount of permit fees assessed against a public entity that has made application for credits shall not be due and payable until after the department made a determination on the application for credit. The department may establish a due date in accordance with WAC 173-223-050 for an amount equal to the fee assessment minus the requested credit. Any balance of fee charges remaining after approval or denial of a credit shall be due thirty days after the department gives notice of such approval

or denial. The department may approve applications for credits that meet the following criteria:

(1) Credit shall not be granted to a facility in excess of twenty-five percent of the permit fee assessed over the five-year period of a permit;

(2) The total amount of credits granted for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars. The total amount of credits granted for any one year shall not exceed the balance of the fifty thousand dollar maximum divided by the number of years remaining before July 1, 1993. If more than one permittee applies for credits during the same year, the department shall consider the amount of the credits applied for and the benefits derived from the comprehensive monitoring programs in distributing the credits for that year among the applicants;

(3) Credit shall not be granted for monitoring required by the terms of the applicant's permit, nor for monitoring of effluent or the effects of effluent on the receiving water, sediment, or biota in the vicinity of the discharge, nor for monitoring that is within the scope of monitoring guidelines developed by the department for implementation through permits;

(4) In applying for ~~((an NPDES permit))~~ a credit, the public entity must demonstrate that the applicant's comprehensive monitoring procedures benefits to the general public or to public agencies responsible for protection or management of the state's waters or aquatic resources. Such benefits must extend beyond the immediate jurisdiction or responsibility of the entity making application.

(5) Requests for credits for fiscal year 1989 must be received by the department no later than April 1, 1989.

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-223-090 ADMINISTRATIVE APPEALS TO THE DIRECTOR. (1) Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the director no later than the due date for payment of fees. Such appeal shall state the reasons that the aggrieved person believes that the department's determination is contrary to the requirements of ~~((RCW 90.48.600, 90.48.610, or 90.48.620))~~ Initiative 97, and specific actions that he/she is requesting that are consistent with those requirements. The director shall either issue a revised determination or a statement upholding the original determination. A revised determination shall be consistent with the requirements of ~~((RCW 90.48.600, 90.48.610, and 90.48.620))~~ Initiative 97. If the director determines that there is a substantial public interest, he/she may hold a public hearing on the appeal prior to issuing a final determination.

(2) Small businesses required to pay permit fees under the industrial facility fee categories may receive a reduction of their permit fees.

(a) To qualify for the fee reduction, a business must:

(i) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(ii) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(iii) Have fifty or fewer employees; and

(iv) Have annual sales of five hundred thousand dollars or less of the goods or services produced using the wastewater-discharging process.

(b) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of (a) of this subsection have been met. The application shall bear a certification of correctness and be signed:

(i) In the case of a corporation, by a responsible corporate officer;

(ii) In the case of a partnership, by a general partner;

(iii) In the case of a sole proprietorship, by the proprietor.

(c) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements in its application, may deny requests for fee reductions and revoke previously granted fee reductions.

(d) The annual permit fee for small businesses determined to be eligible shall be reduced by fifty percent.

(e) If due to special economic circumstances the fee imposed by (d) of this subsection would impose an extreme hardship on a small business, the small business may so indicate in its application for fee reduction and request a further fee reduction. The small business must provide sufficient evidence to support its claim of extreme hardship. The factors which the department may consider in determining whether the applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales, the size of its labor force, the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers, and its average annual profits. In no case will the annual fee be reduced below one hundred fifty dollars.

~~((3) Holders of wastewater discharge permits for municipal/domestic facilities which are assigned to a fee category which imposes a fee greater than five dollars per residential equivalent per year are eligible for permit reductions:~~

~~(a) To receive a fee reduction, a permit holder must submit an application in a manner prescribed by the department certifying the number of residential equivalents that the facility serves.~~

~~(b) The application shall bear a certification of correctness and be signed:~~

~~(i) In the case of a corporation, by a responsible corporate officer;~~

~~(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 ranking elected official or a principal executive officer.~~

~~(c) The department may verify the information contained in the application and, if it determines that the~~

~~permit holder has made false statements in its application, may deny requests for fee reductions and revoke previously granted fee reductions.~~

~~(d) The annual permit fee for a municipal/domestic facility which has been determined to be eligible shall be five dollars times the number of residential equivalents that the facility serves.))~~

#### WSR 89-05-027

#### NOTICE OF PUBLIC MEETINGS EDMONDS COMMUNITY COLLEGE [Memorandum—February 13, 1989]

Thursday, February 16, 1989  
Applied Technology Training Center  
2333 Seaway Boulevard  
Everett, WA 98204

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.

The board of trustees of Edmonds Community College will be meeting in special session February 15, 1989, at 6:30 p.m. in the board room to discuss personnel and contract issues. The board will immediately recess into executive session. No action will be taken.

The regularly scheduled board meeting will be held February 16 at 5:00 p.m. at the Applied Technology Training Center, 2333 Seaway Boulevard, Everett in Room 120.

#### WSR 89-05-028

#### NOTICE OF PUBLIC MEETINGS HUMAN RIGHTS COMMISSION [Memorandum—February 10, 1989]

The special commission meeting, executive session only, to discuss personnel matters held on February 10, 1989, by telephone conference call originating in Olympia, Washington was adjourned to be reconvened on February 16, 1989, at the Doubletree Inn, Dining Room, 16500 Southcenter Parkway, Seattle, beginning at 6:00 p.m. The executive session only will be continued to further discuss personnel matters.

#### WSR 89-05-029

#### ADOPTED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance) [Order 2758—Filed February 13, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-86-090 Physical therapy.

Amd	WAC 388-81-043	Dispute conference—Contractor/provider.
Amd	WAC 388-99-020	Eligibility determination—Medically needy in own home.
Amd	WAC 388-81-060	Medicare cost sharing.
New	WAC 388-82-140	Qualified Medicare beneficiaries eligible for Medicare cost sharing.

This action is taken pursuant to Notice Nos. WSR 89-02-036, 89-02-034, 89-02-038 and 89-02-035 filed with the code reviser on December 30, 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 Department of Social and Health Services as authorized in RCW 74.08.090.

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

APPROVED AND ADOPTED February 10, 1989.

By Leslie F. James  
Administrative Services

AMENDATORY SECTION (Amending Order 2568, filed 12/11/87)

WAC 388-86-090 PHYSICAL THERAPY. (1) The department shall provide physical therapy((~~(a)~~)) as an outpatient service when ((requested)):  
(a) Prescribed by the attending physician; and  
(b) Performed by a registered physical therapist or  
physiatrist; and

(c) The therapy:

(i) ((With)) Avoids the need for hospitalization or nursing home care((;)); or

(ii) ((With)) Assists the recipient in becoming employable((;)); or

(iii) Enables a person suffering from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) Is part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization((; and

(iv) Is performed by a registered physical therapist or physiatrist.

(b) As a part of and included in the payment of another treatment program including, but not limited to:

(i) Hospital inpatient services, or

(ii) Nursing home services, or

(iii) Home health care)).

(2) ((Outpatient physical therapy services)) The department shall require prior approval ((by)) for outpatient physical therapy sessions exceeding ten sessions per patient in a twelve-month period. The medical director of the division of medical assistance (DMA) may waive the approval requirement for therapy provided in facilities which have contracts with DMA as neuromuscular centers.

(3) The department shall include payment for physical therapy in the reimbursement of other treatment programs including, but not limited to:

(a) Hospital inpatient services,

(b) Nursing home services, and

(c) Home health care.

(4) The department shall not provide outpatient physical therapy ((shall not be provided)) under the ((limited casualty)) medically needy or medically indigent programs.

AMENDATORY SECTION (Amending Order 2061, filed 1/4/84)

WAC 388-81-043 DISPUTE CONFERENCE—CONTRACTOR/PROVIDER. (1) Right to an administrative appeal. Any ((certified)) enrolled contractor/provider of medical ((care)) services, except for nursing homes which are governed by WAC 388-96-904, ((who is found liable for receipt of excess payments pursuant to RCW 74.09.220 or otherwise served with notice that repayment of excess benefits is due pursuant to RCW 74.09.220, has a right to a dispute conference)) shall have a right to an administrative appeal in the following situations:

(a) When the department finds a contractor/provider liable for receipt of excess payments pursuant to RCW 74.09.220 or otherwise served with notice that repayment of excess benefits is due under the statute;

(b) When the department changes the contractor/provider reimbursement rate and the contractor/provider disagrees with the change; and

(c) When the department initiates contract action, such as termination, with which the contractor/provider disagrees.

(2) ((A dispute conference is defined as an informal administrative review for the purpose of resolving provider disagreement(s) with a finding of liability for receipt of excess payments)) First level of appeal. A contractor/provider wishing to contest an action described in subsection (1) of this section files an appeal with the appropriate program or audit manager.

(a) Audit disputes. When the department finds a hospital contractor/provider liable for receipt of excess payments, the contractor/provider shall appeal such findings to the office of nursing home audit, administrative services. All other medical service contractors/providers shall appeal to the office of operations review, administrative services.

(i) Unless otherwise specified, the audited contractor/provider shall submit such an appeal within forty-five days after receipt of the draft audit report. If the audited contractor/provider does not submit the appeal timely, the department shall not consider it and the contractor/provider forfeits any rights to a dispute conference.

(ii) The audited contractor/provider's appeal shall include a statement specifying which portion or portions of the audit findings are being disputed, with supporting justification. Administrative services may request additional documentation to complete their review.

(iii) Administrative services shall issue a decision or request additional information within ninety days of receipt of the appeal. When additional information is necessary, administrative services shall issue a decision within sixty days of receipt of complete information. Publication of the final audit report and identification of

a sum certain due the department shall constitute the department's final audit position.

(iv) Administrative services may grant discretionary extensions of time to the audited contractor/providers. The audited contractor/providers shall request an extension within the forty-five day period referenced under subsection (2)(a)(i) of this section.

(b) Rate disputes. A contractor/provider may appeal its rates by submitting a written notice of appeal to the rate analysis section, division of medical assistance (DMA).

(i) Unless the notification of action specifies otherwise, the contractor/provider shall file an appeal within thirty days after being notified of an action or determination it wishes to challenge. If the contractor/provider does not appeal timely, the department shall not consider the appeal and the contractor/provider forfeits the right to a dispute conference.

(ii) The appeal shall include a statement of the issue being appealed, supporting documentation, and a request for recalculation of the rate. DMA may request additional documentation to complete the review. DMA may conduct an audit of the documentation provided in order to complete the review.

(iii) When any portion of a rate is appealed, DMA shall review all components of the reimbursement rate.

(iv) DMA shall issue a decision or request additional information within sixty days of the receipt of the rate appeal request. When additional information is necessary, the contractor/provider shall have forty-five days to submit the information. DMA shall issue a decision within thirty days of receipt of complete information.

(v) Unless the notification of action specifies otherwise, appeals resulting in rate increases shall be effective on the date DMA received the appeal. Appeals resulting in rate decreases shall be effective on the notification date to the contractor/provider. Rate changes subject to the provisions of fraudulent practices under RCW 74.09.210 are exempt from these provisions.

(vi) DMA may grant extensions of time at their discretion if requested within the thirty-day period referenced under subsection (2)(b)(i) of this section.

(c) Contract disputes. The contractor/provider may appeal contract action involving termination or nonrenewal, to the medical director, DMA.

(i) Unless otherwise specified, the contractor/provider shall submit such an appeal within thirty days of notification of contract action by the department. If the contractor/provider does not appeal timely, the department shall not consider the appeal and the contractor/provider forfeits the right to a dispute conference.

(ii) The appeal shall include a statement of the action or actions being appealed and supporting justification.

(iii) DMA shall issue a decision or request additional information within sixty days of receipt of the appeal. When additional information is necessary, the contractor/provider shall have forty-five days to submit the information. DMA shall issue a decision within thirty days of receipt of complete information.

(iv) DMA may grant extensions of time at their discretion if requested within the thirty-day period referenced under subsection (2)(c)(i) of this section.

(3) ((Provider requests for a dispute conference must be made within twenty working days of receipt of final notice that repayment is due, the conference will be conducted within thirty working days of receipt of request and decisions rendered within fifteen working days of the conference. Extensions of timeliness may be granted by the department in extraordinary circumstances)) Second level of appeal. If the contractor/provider disagrees with an adverse audit, rate, or contract review decision, it may file a request for a dispute conference with the director, DMA. A dispute conference is defined as an informal administrative hearing for the purpose of resolving contractor/provider disagreements with any of the department actions described under subsection (1)(a), (b), and (c) of this section which could not be resolved at the first level of appeal.

(a) A contractor/provider shall file a request for a dispute conference within thirty days following receipt of the adverse review decision. The department shall not consider dispute conference requests submitted after thirty days.

(b) DMA shall conduct the dispute conference within ninety days of the receipt of request.

(c) The director, DMA, or the director's designee shall chair the conference when issues regarding medical policy, program policy, or program regulation are in dispute. A contracts officer, office of contracts management, shall chair the conference if contract compliance issues are disputed. The director, DMA, shall determine who chairs the dispute conference.

(d) The conference chairperson shall issue the final decision within thirty days of the conference.

(e) The director, DMA, may grant extensions of time for extenuating circumstances.

(f) The effective date of dispute conference decisions regarding rate changes shall be the same as specified under subsection (2)(b)(v) of this section.

(g) The dispute conference shall be the final level of administrative appeal within the department.

(4) ((The conference will be chaired by the director, or assistant director, division of medical assistance, if program policy is in dispute, otherwise the conference will be chaired by a contracts officer, office of contracts management. The decision as to who will chair the dispute conference shall be the responsibility of the director, division of medical assistance or his designee.

(5) The dispute conference shall be the final level of appeal within the department)) DMA shall construe failure on the part of the contractor/provider to attempt to resolve disputed issues as provided in this section as an abandonment of the dispute.

**AMENDATORY SECTION (Amending Order 2727, filed 11/18/88)**

**WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME.** (1) Effective January 1, 1989, the department shall set the medically needy income level (MNIL) at:

(a) One person	\$ ((382)) 396
(b) Two persons	\$ 532
(c) Three persons	\$ 599



(d) Four persons	\$	667
(e) Five persons	\$	767
(f) Six persons	\$	875
(g) Seven persons	\$	1,008
(h) Eight persons	\$	1,117
(i) Nine persons	\$	1,225
(j) Ten persons and above	\$	1,333

(2) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining:

(a) AFDC eligibility for families and children in a nondesignated FIP geographic area. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for individuals applying solely for medical assistance;

(b) SSI/SSP eligibility for aged, blind, or disabled individuals; and

(c) FIP eligibility for families and children.

(3) The department shall allow the following special income disregards:

(a) Health insurance premiums the individual expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse not to exceed the one person medically needy income level; and

(c) Child care payment amounts allowed as if the individual was a FIP enrollee.

(4) If countable income is equal to or less than the appropriate MNIL, the department shall certify the family or individual eligible.

(5) If countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period under WAC 388-99-055.

(6) The department shall consider the income and resources of the spouse or of the parent of an applicant under eighteen years of age:

(a) In the same household, available to the applicant, whether or not actually contributed; and

(b) Not in the same household, only to the extent of what is actually contributed.

(7) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under chapter 388-92 WAC, deeming of income.

(8) In mixed households, where more than one assistance unit exists, the department shall determine income for:

(a) The AFDC-related assistance unit according to subsections (2)(a) and (3) of this section; and

(b) The SSI-related assistance unit according to subsections (2)(b) and (3) of this section; and

(c) The FIP-related assistance unit according to subsections (2)(c) and (3) of this section.

AMENDATORY SECTION (Amending Order 1646, filed 4/27/81)

WAC 388-81-060 ((~~SUPPLEMENTARY MEDICAL INSURANCE "BUY IN"~~)) MEDICARE COST

SHARING.((~~#~~)) (1) Subject to limitations under chapter 388-87 WAC, the department ((~~will purchase~~)) shall pay, for an otherwise eligible individual:

(a) Supplementary medical insurance Part B, under Title XVIII of the Social Security Act;

(b) Coinsurance; and

(c) Deductibles.

(2) In addition to subsection (1) of this section, the department shall pay Part A, under Title XVIII of the Social Security Act, for an ((~~otherwise eligible~~)) individual eligible under WAC 388-82-140.

NEW SECTION

WAC 388-82-140 QUALIFIED MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICARE COST SHARING. The department shall provide Medicare cost sharing under WAC 388-81-060(2) for an individual:

(1) Meeting the general nonfinancial requirements under chapter 388-83 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act; and

(3) Having resources not exceeding twice the maximum Supplemental Security Income (SSI) resource limits under chapter 388-92 WAC; and

(4) Having a total family income not exceeding eighty-five percent of the poverty income guidelines as published and updated by the secretary of health and human services. Eighty-five percent of the 1988 poverty income guidelines is:

	Family Size	Monthly
(a)	One	\$ 409
(b)	Two	548

(c) For family units with more than two members, add \$139.00 to the monthly income for each additional member.

**WSR 89-05-030**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2759—Filed February 13, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Standards of assistance—Supplemental security income (SSI) program, amending WAC 388-29-295.

This action is taken pursuant to Notice No. WSR 89-02-066 filed with the code reviser on January 4, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED February 10, 1989.  
By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 2565, filed 12/11/87)

WAC 388-29-295 STANDARDS OF ASSISTANCE—SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM. Effective ((~~January 1, 1988~~)) January 1, 1989, the standards of SSI assistance paid to eligible individuals and couples are:

	Standard	Federal Benefit	State Supplement
<b>Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties</b>			
Living alone			
Individuals	<del>\$(382.00-354.00)</del> <u>\$396.00</u>	<u>\$368.00</u>	\$ 28.00
Couples			
Both eligible	<del>((554.00-532.00))</del> <u>575.00</u>	<u>553.00</u>	22.00
With essential person	<del>((553.00-531.00))</del> <u>574.00</u>	<u>552.00</u>	22.00
With ineligible spouse	<del>((546.00-354.00))</del> <u>560.00</u>	<u>368.00</u>	192.00
<b>Area II: All Counties Other Than the Above</b>			
Living alone			
Individuals	<del>((361.55-354.00))</del> <u>375.55</u>	<u>368.00</u>	7.55
Couples			
Both eligible	<del>((532.00-532.00))</del> <u>553.00</u>	<u>553.00</u>	0
With essential person	<del>((531.00-531.00))</del> <u>552.00</u>	<u>552.00</u>	0
With ineligible spouse	<del>((514.15-354.00))</del> <u>528.15</u>	<u>368.00</u>	160.15
<b>Areas I and II: Shared living (all counties)</b>			
Individuals	<del>((241.81-236.00))</del> <u>251.15</u>	<u>245.34</u>	5.81
Couples			
Both eligible	<del>((360.97-354.67))</del> <u>374.97</u>	<u>368.67</u>	6.30
With essential person	<del>((360.30-354.00))</del> <u>374.30</u>	<u>368.00</u>	6.30

	Standard	Federal Benefit	State Supplement
With ineligible spouse	<del>((355.63-236.00))</del> <u>364.97</u>	<u>245.34</u>	119.63

**WSR 89-05-031**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
[Order 2760—Filed February 13, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to monthly allotments, amending WAC 388-49-550.

This action is taken pursuant to Notice No. WSR 89-02-069 filed with the code reviser on January 4, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1989.  
By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 2728, filed 11/18/88)

WAC 388-49-550 MONTHLY ALLOTMENTS.  
(1) The department shall determine the value of the allotment a household receives.

(2) The monthly allotment shall equal the thrifty food plan (TFP) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service.

Household Size	Thrifty Food Plan
1	90
2	165
3	236
4	300
5	356
6	427
7	472
8	540
9	608
10	676
Each additional member	+68

(3) The department shall issue to households, except for households as specified in subsection (4) of this section, a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.

(a) The allotment shall be based upon a thirty-day month.

(b) No allotment shall be issued for less than ten dollars.

(4) Effective September 1, 1988, the department shall issue a full month allotment to migrant and seasonal farmworker households applying within thirty days after a prior certification ends.

(5) The department shall determine the value of the monthly allotment a household receives by:

(a) Multiplying the household's net monthly income by thirty percent,

(b) Rounding the product up to the next whole dollar if it ends with one through ninety-nine cents, and

(c) Subtracting the result from the thrifty food plan for the appropriate household size.

~~((5))~~ (6) One and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when no allotment shall be issued for less than ten dollars.

~~((6))~~ (7) The department shall issue an identification card to each certified household.

### WSR 89-05-032

#### ADOPTED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

#### (Public Assistance)

[Order 2762—Filed February 13, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-49-250 Boarders.

Amd WAC 388-49-450 Income—Earned.

Amd WAC 388-49-460 Income—Unearned.

This action is taken pursuant to Notice No. WSR 89-02-032 filed with the code reviser on December 30, 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 74.04.510 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1989.

By Leslie F. James, Director  
Administrative Services

#### AMENDATORY SECTION (Amending Order 2664, filed 8/2/88)

WAC 388-49-250 BOARDERS. (1) The department defines a boarder as an individual residing with the household, except a person described ~~((m))~~ under WAC 388-49-190 (2)(a), (b), (c), or (d), who is:

(a) ~~((Residing with the household; and (b)))~~ A person paying reasonable compensation to the household for lodging and meals; or

(b) A foster child.

(2) The department shall not grant separate household status to boarders.

(3) The department shall consider a person paying less than reasonable compensation to be a member of the household that provides meals and lodging.

(4) The department shall include ~~((at the household's request;))~~ any boarder ~~((paying reasonable compensation))~~ in the food stamp household, at the household's request.

(5) Residents of a commercial boarding home are not eligible for food stamps.

#### AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-450 INCOME—EARNED. (1) The department shall consider the following as earned income:

(a) Wages and salaries;

(b) Gross income from self-employment, including total gain from the sale of any capital goods or equipment related to the business, and excluding the cost of doing business. Self-employment income includes:

(i) Income from rental property if a household member is managing the property an average of twenty hours or more a week~~((;))~~; and

(ii) Payments from a roomer ~~((or))~~; and

(iii) Payments from a boarder except for child foster care payments.

(c) Training allowances from vocational and rehabilitative programs:

(i) Recognized by federal, state, or local governments; and

(ii) Are not a reimbursement.

(d) Payments under Title I of the Domestic Volunteer Service Act;

(e) Advance on wages;

(f) Earnings by persons ~~((over))~~ nineteen years of age and older from on-the-job training programs under JTPA;

(g) State and federal work study funds;

(h) EIC received regularly;

(i) Money from the sale of blood or blood plasma; and

(j) Military basic allowance for quarters and basic allowance for subsistence in lieu of provided housing and/or food.

(2) The department shall verify gross nonexempt earned income except for expedited service households:

(a) Prior to initial certification~~((;))~~;

(b) At reapplication if amount has changed more than twenty-five dollars~~((;))~~; and

(c) On a monthly basis for households subject to monthly reporting.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-460 INCOME—UNEARNED. (1) The department shall consider unearned income to include, but not be limited to:

- (a) An annuity, pension, or retirement;
- (b) Veteran or disability benefits;
- (c) Workmen or unemployment compensation;
- (d) Old-age, survivors, or social security benefits;
- (e) Strike benefits;
- (f) Payment from federally aided assistance programs based on need;
- (g) Support and alimony payments made directly to the household from a person living outside the household;
- (h) Child support refund payments received by AFDC recipients from office of support enforcement;
- (i) ~~((Payment on behalf of a foster child or))~~ Adult foster care payments;
- (j) Child foster care payments provided the foster child is a food stamp household member;
- (k) Educational benefits less excluded amounts (see income exclusions in WAC 388-49-470):
  - (i) Scholarships((:));
  - (ii) Educational grants including loans where repayment is deferred((:));
  - (iii) Fellowships((:)); and
  - (iv) Veteran benefits.
- ~~((t))~~ (l) Payments from government-sponsored programs;
- ~~((t))~~ (m) Cash prizes, awards, lottery winnings, or gifts;
- ~~((m))~~ (n) Dividends, interest, or royalties;
- ~~((n))~~ (o) Gross income minus the cost of doing business from rental property if a household member is not managing the property at least twenty hours a week;
- ~~((o))~~ (p) Money withheld from public assistance to recoup an overpayment for intentional failure to comply with the public assistance program requirements;
- ~~((p))~~ (q) Direct money payments, such as interest, dividends, and royalties which are a gain or benefit;
- ~~((q))~~ (r) Money legally obligated and otherwise payable to the household, but diverted by the provider of the payment to a third party, for a household expense; and
- ~~((r))~~ (s) The deemed income from an alien's sponsor.

(2) The department shall disregard the following as unearned income:

- (a) Money from any source voluntarily returned by a household member to repay a prior overpayment from the same source((:));
- (b) Mandatory deductions from a source to repay a prior overpayment from the same source except from:
  - (i) AFDC,
  - (ii) Refugee assistance,
  - (iii) GA-U, and
  - (iv) GA-S.

(c) Child support payments assigned to office of support enforcement received by AFDC recipients.

(3) The department shall verify gross nonexempt unearned income except for expedited service households:

- (a) Prior to initial certification((:));
- (b) At recertification if amount has changed more than twenty-five dollars((:)); and
- (c) On a monthly basis for households subject to monthly reporting if the income has changed.

**WSR 89-05-033**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2761—Filed February 13, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New WAC 388-76-080 Multiple facility ownership.  
 Amd WAC 388-76-170 Sponsors' outside employment.

This action is taken pursuant to Notice No. WSR 89-01-091 filed with the code reviser on December 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 74.08.044 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1989.

By Leslie F. James, Director  
 Administrative Services

NEW SECTION

WAC 388-76-080 MULTIPLE FACILITY OWNERSHIP.. No sponsor shall be licensed to operate more than one adult family home concurrently. An individual shall not be employed by a corporation partnership, or individual to operate an adult family home. Being employed by someone to operate an adult family home shall be grounds for denial, suspension, or revocation of that application or license and all associated applications and licenses. Exceptions may be authorized by the department for good cause.

**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 2319, filed 12/18/85)

WAC 388-76-170 SPONSORS' ~~((RESOURCE-ES))~~ OUTSIDE EMPLOYMENT. ~~((The sponsor or sponsors shall have sufficient resources to maintain their~~

~~own family and home without the payments made for the persons in care.))~~ If both sponsors in a two-sponsor home or the single sponsor in a one-sponsor home are employed outside the home, the department must give written approval for placement there. Approval will be based on justification that the sponsor will be able to provide adequate twenty-four-hour care to the residents.

**WSR 89-05-034****PROPOSED RULES****BOARD OF PILOTAGE COMMISSIONERS**

[Filed February 14, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning limitation on new pilots, WAC 296-116-082;

that the agency will at 9:00 a.m., Thursday, April 13, 1989, in the Conference Room, Pier 52, 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 88.16.035.

The specific statute these rules are intended to implement is RCW 88.16.105.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: February 9, 1989

By: Marjorie T. Smitch  
Assistant Attorney General**STATEMENT OF PURPOSE**

Rule: WAC 296-116-082.

Statutory Authority: RCW 88.16.105.

Reason for Amendment: This proposed regulation was necessitated by the 1987 legislative amendment to RCW 88.16.105 which increased the limitation period for new pilots from two to three years.

Implementation: This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposed: This rule is proposed by the Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

**AMENDATORY SECTION** (Amending Order 79-6, Resolution No. 79-6, filed 3/4/80)

WAC 296-116-082 **LIMITATIONS ON NEW PILOTS.** The initial license issued by the board to a pilot applicant shall not authorize such pilot to perform pilotage services on any vessel of a size of 25,000 gross tons (International) or more, or of over 660 feet in length for the first year that such licensee becomes an active pilot. During this first year the licensee will not be authorized to pilot loaded petroleum tankers. During the second year of piloting under an initial license the

pilot may perform pilotage on vessels in excess of 25,000 gross tons (International) and up to 35,000 gross tons (International) if such pilotage does not include the docking or undocking of the vessel. During the third year of piloting under an initial license the pilot may perform pilotage on vessels not over 35,000 gross tons (International), however, the pilot may perform pilotage on vessels in excess of 35,000 gross tons (International) if such pilotage does not include the docking or undocking of the vessel. The initial license shall contain the above limitations and the date of the commencement and expiration of such periods of limitation. The board may also prescribe required familiarization trips before a newly licensed pilot may pilot a larger or different type of vessel.

**WSR 89-05-035****EMERGENCY RULES****BOARD OF PILOTAGE COMMISSIONERS**

[Order 89-1, Resolution No. 89—Filed February 14, 1989]

Be it resolved by the Board of Pilotage Commissioners, acting at the Colman Dock, Pier 52, Seattle, Washington, that it does adopt the annexed rules relating to limitation of new pilots, WAC 296-116-082.

We, the Board of Pilotage Commissioners, 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 the board was under the mistaken belief that this rule was already adopted as a permanent rule.

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

This rule is promulgated pursuant to RCW 88.16.105 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 9, 1989.

By Marjorie T. Smitch  
Assistant Attorney General

**AMENDATORY SECTION** (Amending Order 79-6, Resolution No. 79-6, filed 3/4/80)

WAC 296-116-082 **LIMITATIONS ON NEW PILOTS.** The initial license issued by the board to a pilot applicant shall not authorize such pilot to perform pilotage services on any vessel of a size of 25,000 gross tons (International) or more, or of over 660 feet in length for the first year that such licensee becomes an active pilot. During this first year the licensee will not be authorized to pilot loaded petroleum tankers. During the second year of piloting under an initial license the pilot may perform pilotage on vessels in excess of 25,000 gross tons (International) and up to 35,000 gross tons (International) if such pilotage does not include the docking or undocking of the vessel. During the third year of piloting under an initial license the pilot may

perform pilotage on vessels not over 35,000 gross tons (International), however, the pilot may perform pilotage on vessels in excess of 35,000 gross tons (International) if such pilotage does not include the docking or undocking of the vessel. The initial license shall contain the above limitations and the date of the commencement and expiration of such periods of limitation. The board may also prescribe required familiarization trips before a newly licensed pilot may pilot a larger or different type of vessel.

**WSR 89-05-036**

**PROPOSED RULES**

**WASHINGTON STATE UNIVERSITY**

[Filed February 14, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the board of regents of Washington State University intends to adopt, amend, or repeal rules concerning student conduct and procedural regulations, adopting chapter 504-25 WAC, and repealing chapter 504-20 WAC, WAC 504-21-060, 504-24-010 and 504-24-011;

that the institution will at 3:00 p.m., Wednesday, March 22, 1989, in the Compton Union Building, Pullman, Washington 99164, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 31, 1989.

The authority under which these rules are proposed is chapter 28B.19 RCW, RCW 28B.30.095, 28B.30.125 and 28B.30.150.

The specific statute these rules are intended to implement is RCW 28B.30.125 and 28B.30.150.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before 5:00 p.m. on March 22, 1989.

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:

Dr. Maureen Anderson  
French Administration Building  
Room 332  
Washington State University  
Pullman, Washington 99164-1032  
(509) 335-4531

Dated: February 10, 1989  
By: Dr. Maureen Anderson  
Vice Provost for Student Affairs

**STATEMENT OF PURPOSE**

Title of Rule: New chapter 504-25 WAC, Standards of conduct for students.

Statutory Authority: Chapter 28B.19 RCW, RCW 28B.30.095, 28B.30.125 and 28B.30.150.

Purpose of the Rule(s): To provide a comprehensive student conduct code and set forth the disciplinary process.

Summary of the Rule(s): Chapter 504-25 WAC sets forth student conduct which is prohibited and provides the framework for the disciplinary process and any sanctions that may be imposed if a violation occurs.

Reasons Which Support the Proposed Action: The need for a comprehensive student conduct code and the need to restructure the disciplinary structure to comply with the new Administrative Procedure Act.

Name of Person or Organization Proposing the Rule(s): Dr. Maureen Anderson, Vice Provost for Student Affairs, Washington State University.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Maureen Anderson, Vice Provost for Student Affairs, 332 French Administration Building, (509) 335-4531.

The rules(s) is/are not necessary as a result of federal law, federal court decision(s) or state court decision(s).

Agency Comments: None.

**Chapter 504-25 WAC  
STANDARDS OF CONDUCT FOR STUDENTS**

WAC	
504-25-005	Prologue.
	<b>PART I</b>
	<b>CONDUCT REGULATIONS</b>
504-25-010	Introduction.
504-25-015	Academic dishonesty.
504-25-020	Discrimination.
504-25-025	Sexual assault.
504-25-030	Physical abuse or threatened physical abuse.
504-25-035	Hazing.
504-25-040	Harassment.
504-25-045	Reckless endangerment.
504-25-050	Alcohol.
504-25-055	Drugs.
504-25-060	Firearms and dangerous weapons.
504-25-065	Unlawful entry and trespassing.
504-25-070	Theft or damage of property or services.
504-25-075	Safety equipment.
504-25-080	Forgery and misrepresentation.
504-25-085	Computer abuses.
504-25-090	Disruption.
504-25-095	Disturbing the peace.
504-25-100	Public indecency.
504-25-105	Interference with university or student programs or activities.
504-25-110	Violation of university policies.
504-25-115	Violation of local ordinances, state law, or federal law.
504-25-120	Failure to comply with a proper order.
504-25-125	Assisting illegal or prohibited conduct.
504-25-130	Violation of a disciplinary sanction.
504-25-135	Failure to cooperate with an investigation of any conduct violation.
504-25-140	Other conduct.
	<b>PART II</b>
	<b>DISCIPLINARY PROCESS AND PROCEDURES</b>
504-25-200	Introduction.
504-25-205	Types of hearings.
504-25-210	Disciplinary procedures.

504-25-215	Judicial officer and hearing boards.
504-25-220	Students charged with violations of the standards of conduct.
504-25-225	The hearing.
504-25-230	Sanctions.
504-25-235	Appeals.
504-25-240	Other interventions.
504-25-245	Records.

NEW SECTION

WAC 504-25-005 PROLOGUE. Washington State University, as a community dedicated to the advancement of knowledge, expects all students to behave in a manner consistent with its high standards of scholarship and conduct. Students are expected to uphold these standards both on and off campus. Acceptance of admission to the university carries with it the obligation of responsibility for the welfare of the community. Freedom to learn can be preserved only through respect for the rights of others, for the free expression of ideas and for the law.

Under the terms of admission to Washington State University, students accept its regulations and acknowledge the right of the university to take disciplinary action, including expulsion, for conduct judged unsatisfactory or disruptive to the educational process. When students violate the standards of conduct established by the university, they are subject to the university disciplinary process. The purpose of this process is to educate and to protect the welfare of the community.

PART I  
CONDUCT REGULATIONS

NEW SECTION

WAC 504-25-010 INTRODUCTION. When students enroll at Washington State University they assume an obligation to conduct themselves in a manner which is compatible with the university's function as an educational institution. It is clear that in a community of learning, willful disruption of the educational process, dishonesty, violation of the laws of the state and interference with the rights of others cannot be tolerated. Washington State University retains the right and the power to maintain order within the university and to exclude those who are disruptive to the educational process. To that end, the university community has established the following rules, regulations, and policies which apply to all students and student organizations.

NEW SECTION

WAC 504-25-015 ACADEMIC DISHONESTY. Academic dishonesty, including all forms of cheating, plagiarism and fabrication, is prohibited. Knowingly facilitating academic dishonesty is also prohibited. The expectation of the university is that students will accept these standards and conduct themselves as responsible members of the academic community. These standards should be interpreted by students as general notice of prohibited conduct. They should be read broadly, and are not designed to define misconduct in exhaustive forms. Faculty and their departments also have jurisdiction over academic matters and may also take academic action against students for any form of academic dishonesty discovered in their courses.

NEW SECTION

WAC 504-25-020 DISCRIMINATION. Discrimination on the basis of race, national origin, creed, age, sex, marital status, or handicap is prohibited. This rule will be interpreted in conformity with current federal and state laws on discrimination.

This antidiscrimination regulation explicitly incorporates and prohibits sexual or racial harassment by students. Sexual and racial harassment are defined as conduct which is sexually or racially motivated and has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive environment.

NEW SECTION

WAC 504-25-025 SEXUAL ASSAULT. Sexual assault in any form, including acquaintance rape, is prohibited. University policy is consistent with state law in defining and prohibiting rape, sexual assault, and other forced and/or nonconsensual sexual activity.

NEW SECTION

WAC 504-25-030 PHYSICAL ABUSE OR THREATENED PHYSICAL ABUSE. Actual or attempted abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally causes a reasonable apprehension of harm to any person is prohibited.

NEW SECTION

WAC 504-25-035 HAZING. Hazing is prohibited. Hazing is defined as any action required of or imposed on current or potential members of a group which, regardless of location of the incident or consent of the participant(s):

- (1) Produces, or is reasonably likely to produce bodily harm or danger, mental or physical discomfort, embarrassment, harassment, fright, humiliation, or ridicule;
- (2) Compels an individual to participate in any activity which is illegal, perverse or publicly indecent or contrary to university rules, regulations, or policies or which is known by the compelling person(s) to be contrary to the individual's moral or religious beliefs; or
- (3) Impairs an individual's academic efforts.

NEW SECTION

WAC 504-25-040 HARASSMENT. Harassment of any sort is prohibited. Any malicious act which causes harm to any person's physical or mental well-being is prohibited.

NEW SECTION

WAC 504-25-045 RECKLESS ENDANGERMENT. Recklessly engaging in conduct which creates a substantial risk of physical harm to another person is prohibited.

NEW SECTION

WAC 504-25-050 ALCOHOL. (1) Illegal use, possession, or sale of intoxicating beverages is prohibited. University policy is consistent with state laws on the sale, possession, and consumption of alcoholic beverages.

(2) Consumption or possession of alcohol by students in public areas of any university-owned or controlled property is prohibited except as stipulated in subsection (4) of this section.

(3) Consumption or possession of alcohol at or in line for university-sponsored or supervised events is prohibited.

(4) Students who are twenty-one years old or older may consume or possess alcoholic beverages at a sponsored event for which there is an alcohol license or banquet permit.

NEW SECTION

WAC 504-25-055 DRUGS. Illegal use, possession, sale, or distribution of any narcotic or dangerous drug is prohibited. University policy is consistent with state and federal laws which regulate controlled substances.

NEW SECTION

WAC 504-25-060 FIREARMS AND DANGEROUS WEAPONS. (1) Illegal possession, carrying or discharge of any explosive, firearm, or other weapon (including shot guns, rifles, pistols, air guns, and pellet guns) is prohibited. No student may possess any firearm, explosive, dangerous chemical, or dangerous weapon while on the campus or on other university-controlled or approved property, including university residence halls, apartments, and approved housing except in transit to approved storage.

(2) Any student who wants access to any firearm or weapon while on campus must immediately place the firearm(s) or weapon(s) in the university-provided storage facility while the firearm(s) or weapon(s) is on campus. The storage facility is located at the Washington State University police department.

NEW SECTION

WAC 504-25-065 UNLAWFUL ENTRY AND TRESPASSING. Illegal or attempted illegal entry of university-owned or controlled property or university-approved housing is prohibited. Violation of the university's rules for the use of its facilities in chapters 504-32 and 504-34 WAC, is also prohibited.

NEW SECTION

WAC 504-25-070 THEFT OR DAMAGE OF PROPERTY OR SERVICES. Actual or attempted theft of, or damage to, property or services belonging to the university, any member of its community, or a campus visitor is prohibited. Knowing possession of stolen property is also prohibited.

NEW SECTION

WAC 504-25-075 SAFETY EQUIPMENT. Improper use or disablement of safety or fire fighting equipment, such as fire extinguishers, fire alarms, or exit signs, is prohibited.

NEW SECTION

WAC 504-25-080 FORGERY AND MISREPRESENTATION. Falsifying information to university officials including falsifying information submitted or failing to reveal relevant information on any university form or federal financial aid form, offering any false information in any university disciplinary proceeding, or maliciously altering or misusing university documents, records, permits, or identification is prohibited.

NEW SECTION

WAC 504-25-085 COMPUTER ABUSES. Conduct which violates the university's property rights with respect to computing resources is subject to university disciplinary action. The following conduct is prohibited:

- (1) Unauthorized copying, including:
  - (a) Copying university-owned or licensed software or data for personal or external use without prior approval;
  - (b) Copying another computer user's software or data without permission of its owner, even if it is readily accessible by electronic means;
  - (c) Knowingly accepting or using software or data which has been obtained by unauthorized means.
- (2) Modifying or damaging, attempting to modify or damage, computer equipment, software, databases, or communications lines without permission;
- (3) Disrupting or attempting to disrupt computer operations;
- (4) Invading the privacy of an individual by using electronic means to ascertain confidential information, even if an individual or department inadvertently allows access to such information;
- (5) Abusing or harassing another computer user through electronic means;
- (6) Using the university's computing facilities in the commission of a crime;
- (7) Using computer services without authorization;
- (8) Allowing another individual to use one's computer identity/account or using another individual's computer identity/account. This includes, but is not limited to, logging on to the account, accessing programs, and reading or altering computer records. Computer time belongs to the university; the university is the only entity, through computing services, authorized to allocate time on the mainframe computers.

NEW SECTION

WAC 504-25-090 DISRUPTION. While students have the right to freedom of expression, including the right to dissent or protest, this expression cannot interfere with the rights of others or disrupt the processes of the university. The following conduct will not be permitted:

- (1) Disruption of classes, laboratories, offices, services, meetings, or ceremonies;
- (2) Obstruction of free movement of people or vehicles; provided, peaceful picketing is permitted only as long as it takes place outside buildings and does not interfere with the flow of traffic to and from buildings;
- (3) Conduct which threatens harm, incites violence, or endangers the health and safety of any person;
- (4) Threats of disruption, including bomb threats;
- (5) Damaging, defacing or abusing university facilities, equipment, or property; or
- (6) Inciting others to engage in prohibited conduct.

NEW SECTION

WAC 504-25-095 DISTURBING THE PEACE. Creating noise in such a way as to interfere with university functions or using sound amplification equipment in a loud and raucous manner is prohibited.

NEW SECTION

WAC 504-25-100 PUBLIC INDECENCY. Indecent or obscene conduct is prohibited. Indecent or obscene conduct is conduct which is public and offensive to community standards.

NEW SECTION

WAC 504-25-105 INTERFERENCE WITH UNIVERSITY OR STUDENT PROGRAMS OR ACTIVITIES. Intentionally or recklessly interfering with any university or student program or activity, including teaching, research, administration, meetings or fire, security, or emergency services, is prohibited.

NEW SECTION

WAC 504-25-110 VIOLATION OF UNIVERSITY POLICIES. Violation of any university policy or rule is prohibited.

NEW SECTION

WAC 504-25-115 VIOLATION OF LOCAL ORDINANCES, STATE LAW, OR FEDERAL LAW. Students are expected to comply with local, state, and federal laws. The university may take action, whether the violation occurs on or off campus, when a definite university interest is involved and where the conduct distinctly and adversely affects the university's pursuit of its educational mission or the health or safety of members of the university community.

NEW SECTION

WAC 504-25-120 FAILURE TO COMPLY WITH A PROPER ORDER. Willful refusal or failure, while on university-owned or controlled property or on the premises of university-approved housing, to comply with a proper order or request of a university official, campus security officer or law enforcement officer, acting in performance of their duties is prohibited.

NEW SECTION

WAC 504-25-125 ASSISTING ILLEGAL OR PROHIBITED CONDUCT. Aiding, assisting in, or serving as an accomplice in the commission of any illegal act or any act prohibited by these university conduct regulations is prohibited.

NEW SECTION

WAC 504-25-130 VIOLATION OF A DISCIPLINARY SANCTION. Violation of any term of any disciplinary sanction is prohibited.

NEW SECTION

WAC 504-25-135 FAILURE TO COOPERATE WITH AN INVESTIGATION OF ANY CONDUCT VIOLATION. Failure to cooperate with the investigation of any conduct violation, or interference with a proper investigation of any violation by withholding evidence, encouraging or threatening another to withhold evidence is prohibited.

NEW SECTION

WAC 504-25-140 OTHER CONDUCT. Any other conduct or action in which the university can demonstrate a clear and distinct interest and which substantially threatens the educational process or other legitimate function of the university or the health or safety of any member of the university community is prohibited.

PART II  
DISCIPLINARY PROCESS AND PROCEDURES



NEW SECTION

WAC 504-25-200 INTRODUCTION. (1) The university has established the standards of conduct for students and the disciplinary process to protect its educational purpose, provide for the orderly conduct of its activities, and safeguard the interests of the university community. The disciplinary procedures used by the university are considered part of its educational process. Hearings or appeals conducted as a part of the disciplinary process are not courts of law and they are not subject to many of the constraints of civil or criminal hearings. Because some of the standards of conduct are also violations of law, students may be accountable to both civil authorities and to the university for their actions. Disciplinary action at the university will normally proceed without regard for any civil or criminal proceeding and will not be subject to challenge on the basis of the outcome of any civil or criminal proceeding.

(2) This process is intended to be educative for the students involved, although sanctions can include temporary or permanent removal from the university. Students involved in these procedures should expect to be treated fairly and go through the process in a timely manner. The purposes of the disciplinary process are:

- (a) To determine the facts about the allegation(s);
  - (b) To determine the responsibility of the accused student or student organization;
  - (c) To determine an appropriate sanction if the accused student or student organization is found responsible for a violation; and
  - (d) To help any student or student organization found responsible for any violation of the standards of conduct to understand the negative impact of their actions.
- (3) Any behavior which may have been influenced by a student's mental state, or use of drugs or alcohol will generally not limit the responsibility of the student for his or her action.

NEW SECTION

WAC 504-25-205 TYPES OF HEARINGS. (1) The procedures for student conduct hearings, whether before the university conduct board, or before an administrative hearing officer, are brief hearing procedures in accordance with RCW 34.05.482. The minimum procedures of RCW 34.05.482 through 34.05.494, as may be amended in the future, are adopted for student conduct hearings. To assure proper due process is provided to students, the following additional protections apply to conduct hearings.

(2) The university has established several types of hearings. The nature of the alleged violation will determine which type of hearing a student will receive.

(a) The university administrative hearing officer hears cases which involve violations of the standards of conduct. The hearing officer will not hear cases which could result in suspension or dismissal from the university.

(b) The university conduct board hears cases which involve violations of the standards of conduct and can impose all levels of sanctions.

NEW SECTION

WAC 504-25-210 DISCIPLINARY PROCEDURES. (1) Any student, faculty member, staff member, or the university may file a complaint against a student or student organization for any violation of the standards of conduct.

(2) Once a complaint has been initiated, the following procedures are followed:

(a) The accused student or the president of the student organization is contacted and interviewed by the university judicial officer. During that interview the student is informed of the charge(s) and asked to make a written statement about the incident. The student is also informed of the individual's or organization's rights and responsibilities in the disciplinary process. The investigation may include interviews of other people involved. The judicial officer may discontinue any investigation when the allegation(s) is/are deemed to be without basis or there is insufficient basis for the allegation(s).

(b) In the event that the judicial officer finds that there is any basis to the allegation(s), the student or student organization may be officially charged with violation(s) of the standards of conduct. The student or student organization will be assigned to either an administrative hearing or a university conduct board hearing. Any student accused of an offense which could result in suspension or expulsion will be sent to a full university conduct board hearing, unless the student requests and is granted an administrative hearing.

(c) When any student or student organization is charged with violation(s) of the standards of conduct, they must be notified at least seven calendar days in advance of the hearing. The notice must be in writing and include:

(i) The specific charges, citing the appropriate university policy or regulation allegedly violated;

(ii) The time and place of the alleged act(s) insofar as may be reasonably known; and

(iii) The time and place of the hearing.

(3) If a student has withdrawn or withdraws after the filing of any charge of a violation of the standards of conduct, either:

(a) A "registration hold" will be placed on the student's academic record and the student will be notified that disciplinary action may be initiated upon the student's reentry or application for readmission; or

(b) The university may proceed with the disciplinary action.

NEW SECTION

WAC 504-25-215 JUDICIAL OFFICER AND HEARING BOARDS. Generally, the first contact with any student or student organization involved in the discipline process is made by the university judicial officer. The judicial officer is an assistant in the office of student affairs and serves as the chief investigator and prosecutor. The judicial officer prepares the case and the materials. The judicial officer serves as the secretary of the university conduct board and may be the administrative hearing officer.

The administrative hearing officers are appointed by the vice provost for student affairs and are generally members of the faculty in student affairs. The administrative hearing officer is responsible for hearing cases where the student or student organization has been offered a less formal hearing. The administrative hearing officer determines both the responsibility of the accused student or student organization and the sanction(s).

The university conduct board is a presidential standing committee, recommended by the vice provost for student affairs and appointed by the president. The university conduct board is made up of faculty members and graduate and undergraduate members. Members of each conduct board are drawn from this pool of trained members. On each conduct board there are five members: Two faculty members, two students, and the chairperson. The chairperson is the assistant to the vice provost for student affairs.

The university appeals board is composed of three university administrators, appointed by the president, one of whom is the vice provost for student affairs.

NEW SECTION

WAC 504-25-220 STUDENTS CHARGED WITH VIOLATIONS OF THE STANDARDS OF CONDUCT. (1) Any student or student organization charged with any violation(s) of the university standards of conduct have the following rights in disciplinary procedures:

(a) The right to notice of the charge(s) against them and the basis for the charge(s).

(b) The right to remain silent when charged with any act which may be a violation of criminal law to avoid self incrimination.

(c) The right to seven calendar days' notice before the disciplinary hearing.

(d) The right to present written information to the hearing officer or member(s) of the hearing board prior to the hearing, including signed statements from witnesses and arguments.

(e) The right to a hearing.

(f) The right to consult an adviser.

(g) The right of one appeal.

(2) Any student or student organization brought before the university conduct board, has these additional rights:

(a) The right to view the material to be presented against them in advance of the hearing.

(b) The right to have an adviser present at the hearing; however, the student or student organization may have only one adviser present. The adviser may be allowed to give the student or student organization advice during the hearing, but is not permitted to speak to the hearing board or conduct examinations of witnesses and the adviser is not permitted to disrupt the proceeding.

(c) The right to hear the testimony of all witnesses.

(d) The right to present questions to be asked of all witnesses.

(e) The right to have a record made of the hearing.

NEW SECTION

WAC 504-25-225 THE HEARING. (1) The following guidelines apply to both administrative hearings and hearings before the university conduct board:

(a) All hearing officers and board members should be impartial (i.e., not personally involved in the alleged act(s) with which the student is charged).

(b) The hearings are closed to the public.

(c) The university bears the burden of proving the charge(s) by a preponderance of evidence.

(d) The hearing officer or presiding officer of each board will exercise control over the hearing. A hearing officer or board is not bound by the rules of evidence observed by courts and may exclude unduly repetitious or irrelevant evidence.

(e) Any person, including the charged student or any member of the charged student organization, who disrupts a hearing may be excluded from the proceedings.

(f) The decision of responsibility on the charge(s) will be based on evidence and testimony presented at the hearing. However, the complete record of the student's or student organization's prior conduct and academic performance may be taken into account by the hearing officer or board in imposing any sanction(s).

(g) Deliberations on the hearing are closed to everyone but the hearing officer or member(s) of the board.

(h) The accused student or student organization president will be sent notification of the decision, the reasons for the decision and the sanction(s), if any, in writing within ten calendar days of the hearing.

(i) Only the hearing officer or board member(s), the accused student or student organization, and the person(s) bringing the allegation(s) will be notified of the results of the hearing.

(j) If a student or student organization fails to appear at a hearing after proper notice, the hearing will proceed on the charge(s) and in such a case the hearing officer or member(s) of the hearing board will decide on responsibility and, if appropriate, the sanction(s).

(2) The following guideline applies only to hearings before the university conduct board: The university and the charged student or student organization will have the opportunity to call witnesses, present evidence, and question witnesses.

NEW SECTION

WAC 504-25-230 SANCTIONS. (1) Any of the following sanctions or any combination of the sanctions may be imposed for violation(s) of the standards of conduct:

(a) Disciplinary probation: This may include the imposition of a set of conditions for any student or student organization defined for a specific period of time. If any condition of the probation is violated, this will constitute a new violation.

(b) Community service: Assignment of labor or responsibilities to any student or student organization within the university or local community may be imposed up to a maximum of eighty hours per student or per member of an organization.

(c) Restitution: This will include reimbursement for damaged or stolen property and medical expenses resulting from the violation(s).

(d) Fines: Monetary fines up to five thousand dollars for any student organization or two hundred fifty dollars for any student may be imposed.

(e) No contact order: Prohibition of direct or indirect physical and/or verbal contact with another individual or group may be imposed.

(f) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may be shared with the conduct administrator and conduct committee. If the assessment by any university counselor or physician recommends any condition(s), those recommendations may become conditions of the sanction. If the assessment indicates that the student is not capable of functioning within the university community, the student will be suspended until further assessment recommends that the student is capable of reentering the university.

(g) Loss of privileges or exclusion from activities: Loss of the right to live in a specific housing unit or in university-owned or approved housing may be imposed. Exclusion from participation in designated privileges and extracurricular activities for specific periods of time may also be imposed.

(h) Loss of recognition or charter: A student organization may have its recognition or charter withdrawn, either permanently or for a specific period of time.

(i) Censure: This is a written reprimand for any violation of university policy or campus regulation, including explicit notice to the student or student organization that continued or repeated violation of any policy or regulation may be cause for further disciplinary proceedings.

(j) Hold on transcript and/or registration: This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of conditions of the sanction, the hold shall be released.

(k) Negative notation on transcript: Entry of violation on the student's academic record may be made for suspension or expulsion.

(l) Suspension: This is termination of student status for a given period of time. Upon satisfactory completion of stated conditions, reinstatement shall be granted.

(m) Expulsion: This is termination of student status for an indefinite period.

(2) Any student who has been suspended or expelled may be excluded from specific areas of campus when there is a reasonable cause to believe that their presence there will lead to physical abuse, threats of violence, or conduct which threatens the health and safety of any person on university-owned or controlled property, in university-approved housing, or at an official event, or other conduct which interferes with the orderly functioning of the university.

NEW SECTION

WAC 504-25-235 APPEALS. (1) Any student or student organization charged with any violation(s) of the standards of conduct and found responsible for any violation(s) by a hearing board or administrative hearing officer is entitled to one administrative appeal. The routes for those appeals are as follows:

(a) University administrative hearing appeals go to the vice provost for student affairs.

(b) University conduct board appeals go to the university appeals board.

(2) An appeal must be filed within twenty-one calendar days of the student receiving or the president of the student organization receiving the decision. All requests to review a decision must be to the vice provost for student affairs for appeals of decisions of the university administrative hearing officer or the university conduct board and should be in writing. The letter must state the grounds for the appeal. The following are the grounds for appeal:

(a) A procedural error which materially affected the decision;

(b) New evidence not previously available which would have materially affected the decision;

(c) The decision was not supported by substantial evidence; or

(d) The severity or appropriateness of the sanction(s).

(3) During the appeal process, the burden of proof shifts from the university to the student or student organization. The appeal process is a review of the record of the hearing plus the letter of appeal, including any written argument(s) submitted by the student or student organization, and new evidence if that is the ground for the appeal. It is not a new hearing.

NEW SECTION

WAC 504-25-240 OTHER INTERVENTIONS. (1) In most instances a student who or student organization which is involved in alleged misconduct goes through the full disciplinary process before any action is taken by the university. However, in situations where there is cause to believe that the student or student organization poses an imminent threat to himself or herself, to others, or to property, or is incapable of continuing as a student for medical/psychological reasons, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the vice provost for student affairs or one of the associate vice provosts, may include:

(a) Interim restrictions, including but not limited to assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(c) Mandatory medical/psychological assessment, including referral to a panel of university physicians/psychologists for assessment of the student's capability of remaining in the university.

(2) If interim action is required and taken, the student or student organization is entitled to an administrative hearing as soon as is reasonably possible, but no later than ten days after the action is taken.

NEW SECTION

WAC 504-25-245 RECORDS. These disciplinary proceedings and records are confidential. The office of the vice provost for student affairs will maintain disciplinary records for a minimum of seven years. Disciplinary records will be made available to hearing boards and university personnel, as needed.

Any student may review his/her own disciplinary records by contacting the office of the vice provost for student affairs. Except as outlined in these procedures, the university will not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required by law. If the student is a minor, the student's parents or legal guardians may review these records.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 504-20-005 DISCRIMINATION PROHIBITED.
- WAC 504-20-010 FREEDOM OF EXPRESSION.
- WAC 504-20-020 CONDUCT REGULATIONS FOR FACULTY, STAFF, OTHER EMPLOYEES, AND STUDENTS.
- WAC 504-20-025 ALCOHOLIC BEVERAGES.
- WAC 504-20-030 CONDUCT REGULATIONS FOR CAMPUS GUESTS AND VISITORS.
- WAC 504-20-040 ACADEMIC INTEGRITY GUIDELINES.

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 504-21-060 UNIVERSITY RECORDS.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 504-24-010 DISCIPLINARY STRUCTURE AND PROCEDURES.
- WAC 504-24-011 FORMAL HEARING OPTION—DESIGNATION OF HEARING OFFICER OR PANEL.

**WSR 89-05-037**

**NOTICE OF PUBLIC MEETINGS  
WASHINGTON STATE LIBRARY  
(Library Commission)**

[Memorandum—February 13, 1989]

Wednesday, March 8, 1989, 4:00 p.m., the Washington State Library Commission will meet for a staff briefing in the Office of the State Librarian, State Library Building, Capitol Campus, Olympia, Washington.

Thursday, March 9, 1989, 10:00 a.m., the Washington State Library Commission will hold its regular business meeting in the meeting room, Timberland Regional Library Service Center, Tumwater, Washington.

**WSR 89-05-038**

**PROPOSED RULES  
DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed February 15, 1989]

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 workers' compensation insurance underwritten by the Washington state fund, Department of Labor and Industries and specifically WAC 296-17-350 which deals with methods of determining worker hours for various industries and employments. Amendments proposed were adopted earlier and appeared in WSR 88-12-065 (Order 88-05), filed May 31, 1988; WSR 87-24-060 (Order 87-26), filed December 1, 1987; and WSR 88-14-076 (Order 87-31), filed July 1, 1988. However, due to an error in filing subsection (6) of WAC 296-17-350 on an earlier draft of this rule which appeared in WSR 88-14-076, other subsection changes were inadvertently affected. This filing will correct the errors that resulted.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 21, 1989.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is RCW 51.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

The agency reserves the right to modify the text of these proposed rules in response to written comments thereon received prior to March 21, 1989.

Written submissions may also contain data, news, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21 RCW.

Correspondence relating to this notice and proposed rules shown below should be addressed to:

Douglas Connell  
Assistant Director for Employer Services  
Department of Labor and Industries  
905 Plum Street S.E.  
Olympia, WA 98504

Dated: February 15, 1989

By: Joseph A. Dear  
Director

**STATEMENT OF PURPOSE**

Title and Number of Rule Section(s) or Chapter(s): WAC 296-17-350, Minimum premiums—Assumed worker hours.

Statutory Authority: RCW 51.04.020(1).

Specific Statute that Rule is Intended to Implement: RCW 51.16.035.

Summary of the Rule(s): Chapter 296-17 WAC contains the Manual of rules, classifications, rates, and rating system for Washington's workers' compensation insurance. The specific subsection proposed for change deals with methods of determining worker hours for employees whose compensation (wages) are based on considerations other than actual hours worked. Amendments being proposed were adopted earlier and appeared in WSR 88-12-065 (Order 88-05), filed May 31, 1988; WSR 87-24-060 (Order 87-26), filed December 1, 1987; and WSR 88-14-076 (Order 87-31), filed July 1, 1988. However, due to an error in filing subsection (6) of WAC 296-17-350 (use of an earlier unmodified draft

of WAC 296-17-350), other subsections were inadvertently affected. This filing will correct the errors that resulted.

Reasons Supporting the Rule(s): Revisions and/or amendments to existing rules are intended to extend uniform treatment and equity to all affected employers. The changes being proposed are reflective of recognized workers' compensation insurance practices.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s): Joseph A. Dear, Director, 753-6307; R. L. McCallister, Deputy Director for Industrial Insurance, 753-5173; and Douglas Connell, Assistant Director for Employer Services, 586-8401; General Administration Building, HC-281, Olympia, Washington 98504.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule(s): State of Washington, Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule(s): None.

These rules are not proposed 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.

Small Business Economic Impact Statement: This statement pertains to revisions to chapter 296-17 WAC proposed by the Department of Labor and Industries, to become effective permanently on April 21, 1989, and is prepared to conform with sections 3(2) and 4 of the Regulatory Fairness Act (chapter 6, Laws of 1982).

Existing Rules: Chapter 296-17 WAC presently defines approximately 290 risk classifications for purposes of reporting exposures and computing premiums for workers' compensation insurance as well as rules governing the application of these risk classifications to businesses or occupations, provisions for an experience rating plan, insurance base rates applicable to each risk classification, and rules governing the reporting of worker hours and the assessment of penalties for employers who fail to register or file late payroll reports.

Treatment of Small Business Under Existing Rules: Risk classification definitions are keyed to the nature of an employer's business operations within this state and in certain cases individual employments, and are independent of business size. Once the number of risk classifications statistically supportable has been determined and the risks defined, base rates are developed for each risk classification. All new employers conducting like businesses are assigned into a common classification pool representative of their business undertaking and are assigned the same base rate. As experience is developed by each employer, a modified rate as provided for in the experience rating plan is calculated. Those employers with a favorable past experience receive rate reductions while those employers with unfavorable past experience receive rate increases. Within the experience rating plan, small employers with a loss-free record during the experience rating period are allowed rate credits in excess of those initially computed by the rating plan based on risk

size, by imposing a maximum modification for loss-free firms of various sizes in WAC 296-17-890.

Effect of Proposed Revisions: Changes proposed to WAC 296-17-350 affects reporting of hours for employees whose compensation (wages) is not based or determined by actual hours worked. These changes apply equally to all affected employers regardless of their size.

Amendments being proposed were adopted earlier and appeared in WSR 88-12-065 (Order 88-05), filed May 31, 1988; WSR 87-24-060 (Order 87-26), filed December 1, 1987; and WSR 88-14-076 (Order 87-31), filed July 1, 1988.

AMENDATORY SECTION (Amending Order 87-31, filed 7/1/88, effective 1/1/89)

WAC 296-17-350 MINIMUM PREMIUMS—ASSUMED WORKER HOURS. A minimum premium is the lowest amount of premium to be paid by an employer and is also the basis for determining premium computation for workers for whom an assumed number of worker hours must be, and hereby, is established:

(1) Minimum premium. Except as otherwise provided in this chapter, every employer shall be liable for a premium not less than ten dollars for any calendar quarter regardless of number of worker hours reported.

(2) ~~(Minimum premium for elective adoption. Any employer having in their employ any person exempt from mandatory coverage whose application for coverage under the elective adoption provisions of RCW 51.12.110 is accepted by the director, shall have a minimum premium rate for such employer's applicable class based upon not less than 40 worker hours for each month, until such time as elective adoption coverage is cancelled. PROVIDED, That the minimum premium rate as specified above shall not apply to sole proprietors, partnerships, or executive officers obtaining coverage subject to other provisions of this chapter.)~~

~~[Excluded employments. Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis, or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.]~~ Excluded employments. Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) Resident managers, caretakers, or similar employments that are employed for irregular periods and whose compensation is for a stipulated sum in money or a substitute for money shall be reported for the purpose of premium calculation as provided in subsection (6) of this section.

(4) Commission personnel. Commission personnel are persons whose compensation is based upon a percentage of the amount charged for the commodity or service rendered. Commission personnel are to be reported for premium purposes at a minimum of assumed worker

hours of not less than eight worker hours a day for part-time employment, or not less than 40 worker hours per week for full-time employment: PROVIDED, That the assumed eight worker hours daily for part-time employment will apply only if the employer's books and records are maintained so as to show separately such person's actual record of employment.

(5) Salaried personnel. Salaried personnel for the purposes of this chapter means persons whose compensation is not governed by the number of hours devoted to employment for their employer. Employers having salaried personnel in their employ shall for the purpose of premium calculation report assumed worker hours based upon one hundred sixty worker hours for each month in which the employee is on salary: PROVIDED, That if the employer maintains complete and accurate records, supported by original time cards or timebook entries, the employer may report and pay premium on the actual hours worked by salaried personnel (~~((All salaried personnel must be reported in the same manner))~~): PROVIDED FURTHER, That the department may, at its discretion, authorize some other method in assuming workers hours for premium calculating purposes in the case of contract personnel employed by schools and/or school districts.

(6) Piece workers. For employees whose compensation is based upon the accomplishment of a number of individual tasks whether computed on the number of pounds, items, pieces, or otherwise who are not subject to any federal or state law or rule which requires the reporting of actual hours worked, the employer shall for the purpose of premium calculation assume each two dollars of earnings of each employee as representing one worker hour: PROVIDED, That if the average rate of compensation for the applicable classification is at least \$3.00 but less than \$3.50 per worker hour the assumed amount shall be \$3.00 of earnings as representing one worker hour, and on a progressive basis, if the average compensation is at least \$3.50 but less than \$4.00 the assumed amount shall be \$3.50 of earnings as representing one worker hour, and so forth. The records of the department as compiled for the preceding fiscal year ending June 30, shall be the basis for determining the average rate of compensation for each classification: PROVIDED FURTHER, That an employer who maintains records but is not required to do so shall report the actual hours worked for the purpose of premium calculation. In the event an employer who is otherwise required by federal or state laws or rules to maintain records of actual hours worked by each employee fails to do so, the worker hours of such employees will be determined by dividing the gross wages of each employee by the state minimum hourly wage to determine the hours reported for the purpose of premium calculation. Notwithstanding any other provisions of this section, workers employed in a work activity center pursuant to WAC 296-17-779 shall be reported on the basis of the piece worker rule.

(7) Noncontact sports teams. All employers having personnel in their employ as defined under WAC 296-17-745 shall for the purpose of premium calculations, report assumed worker hours based upon 40 worker hours for each week in which any duties are performed.

(8) All employers having personnel in their employ as defined under WAC 296-17-739 shall, for the purpose of premium calculations, report assumed worker hours based upon ten hours for each mount in each horse race; professional drivers shall report worker hours based upon ten hours for each heat or race of any racing event: PROVIDED, That any day such personnel do not ride or drive in a race, the premium calculation shall be made by assuming ten worker hours for any day in which duties are performed.

(9) Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: PROVIDED, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: PROVIDED FURTHER, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.

~~((10) Licensed trainers—parimutuel racing. All trainers which come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations who employ workers shall pay a minimum premium of one hundred dollars annually to the department which shall be in addition to a per start rate established for the various parimutuel tracks state-wide. The minimum premium shall be calculated using twenty assumed worker hours and be reported in classification 6613. For the purpose of premium calculation report assumed worker hours based upon ten hours for each start.)) (10) Licensed~~

trainers—parimutuel racing. All trainers which come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations who employ workers shall pay a minimum premium of one hundred dollars annually to the department which shall be in addition to a per start rate established for the various parimutuel tracks state-wide. The minimum premium shall be calculated using twenty assumed worker hours and be reported in classification 6613. For the purpose of premium calculation report assumed worker hours based upon ten hours for each start.

## WSR 89-05-039

### NOTICE OF PUBLIC MEETINGS DEPARTMENT OF ECOLOGY

[Memorandum—February 15, 1989]

#### NOTICE OF INTENTION TO ESTABLISH AND ADOPT A GENERAL SCHEDULE FOR THE DESIGNATION OF GROUND WATER MANAGEMENT AREAS

Enclosed is the draft general schedule for the designation of ground water management areas and the development of ground water management programs. The Department of Ecology (ecology) received one request for identification of a probable ground water management area from a local agency. Ground water management areas which were ranked but not funded on a previous general schedule retain their ranking on this schedule. Areas ranked in 1986 are numbers one through eight. Areas ranked in 1987 are numbers nine through fifteen. The remaining area was designated a probable area in 1988. As additional requests are made, those areas will be ranked and added to the general schedule.

The general schedule identifies the relative priority of each of the probable ground water management areas. The relative priority is based upon criteria relating to the availability of local or state agency resources to develop and implement a ground water management program, and the significance, severity or urgency of the problems or potential problems within each area, with the highest priority given to areas where the ground water quality is imminently threatened.

The general schedule will guide ecology in the designation of specific ground water management areas for the development of ground water management programs. The centennial clean water funding program established by the legislature in 1986 authorized ecology to contribute matching funds for planning assistance to such areas.

Ecology will conduct a public hearing to consider its proposed general schedule at 2:30 p.m., March 21, 1989, at the Energy Facility Siting Council Hearings Room, 4224 6th Avenue S.E., Lacey, WA 98503.

Adoption of the general schedule will take place on March 31, 1989.

Interested persons may submit data, views or comments at the hearing or in writing before March 21, 1989, to Doug Rushton, Water Resources Program, Washington Department of Ecology, Mailstop PV-11, Olympia, Washington 98504.

CHAPTER 173-100 WAC  
GROUND WATER MANAGEMENT AREAS

GENERAL SCHEDULE  
February 15, 1989

<u>AREA</u>	<u>COUNTY</u>	<u>RANKING</u>
Clover-Chambers		
Creek Basin	Pierce	1
Island County	Island	2
South King County	King	3
Vashon/Maury Islands	King	4
Gig Harbor Peninsula	Pierce	5
Kitsap County	Kitsap	6
Redmond-Bear Creek	King	7
Issaquah Creek Valley	King	8
Clark County	Clark	9
North Thurston County	Thurston	10
Deer Park Basin	Spokane/Stevens	11
Lummi Indian Reservation	Whatcom	12
Toppenish Creek Basin	Yakima	13
East King County	King	14
Methow River Basin	Okanogan	15
Blaine	Whatcom	16

**Reviser's note:** The spelling error in the above material appeared in the original copy and appears herein pursuant to the requirements of RCW 34.08.040.

**WSR 89-05-040**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning horticulture inspection fees, chapter 16-400 WAC;

that the agency will at 10:00 a.m., Wednesday, March 22, 1989, in the Ellensburg Inn, 1700 Canyon Road, Ellensburg, WA 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 31, 1989.

The authority under which these rules are proposed is chapter 15.17 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 22, 1989.

Dated: February 15, 1989  
By: J. Allen Stine  
Assistant Director

**STATEMENT OF PURPOSE**

Title: Chapter 16-400 WAC, Horticulture inspection fees.

Description of Purpose: To increase horticulture inspection fees.

Statutory Authority: Chapter 15.17 RCW.

Summary of Rules: The rule increases fees on inspection of fresh fruits and vegetables. The increase is necessary to maintain the current level of service.

Agency Personnel to Contact: James R. Archer, Commodity Inspection Division, Department of Agriculture, 406 General Administration Building, AX-41, Olympia, WA 98504, phone (206) 753-5054.

These rules are proposed by the Department of Agriculture.

Agency Comment: Fees were last increased on January 1, 1985, in District 2 (Yakima) and District 4 (Wenatchee). In District 3 (Moses Lake) fees were last increased on March 3, 1986. Since that time substantial growth in workload has occurred through increased crop volume and through certain additional inspection regulations as requested by the industry. Inflationary costs and modest salary increases during the past four years have escalated operating costs to the point, the districts are now experiencing substantial losses. Certain procedures as required by the United States Department of Agriculture have also significantly added to operating costs. User fees for service is the sole source of revenue to the inspection program. A fee increase is now necessary in order to maintain the current level of service and to enforce recently enacted quality regulations requested by the industry.

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

Small Business Impact Statement: None.

AMENDATORY SECTION (Amending Order 1847, filed 2/28/85)

WAC 16-400-007 DEFINITION. For the purposes of this chapter districts ((one;)) two, three, and four are defined in chapter 16-458 WAC Horticultural inspection district boundaries.

AMENDATORY SECTION (Amending Order 1884, filed 4/2/86)

WAC 16-400-010 GRADE AND CONDITION CERTIFICATES-FRUITS. Charges for grade and condition certificates for all fruits shall be:

(1) The minimum charge for all fruits shall be ((:)) nine dollars.

((District one	\$6.00
District two	\$7.00
District three	\$8.00
District four	\$8.00))

(2) For all fresh market fruits of apples, pears, and soft fruit in containers—wrapped, place pack, face and fill, in bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or in bags, per cwt. or fraction thereof:

	((Districts			
	1	2	3	4
Apples	8.75¢	10¢	11¢	11¢
Apricots	9.75¢	11¢	12¢	12¢
Cherries, nectarines and peaches	15¢	17.25¢	18.75¢	18.75¢
Pears	7.75¢	9.0¢	9.75¢	9.75¢
Plums, prunes, other soft fruits, grapes, and berries	11.66¢	13.4¢	14.60¢	14.60¢))

(a) For federal-state certification:

Apples	13¢
Apricots, cherries, nectarines and peaches	21¢
Pears	12¢
Plums, prunes, other soft fruits, grapes, and berries	16¢

(b) For state certification:

Apples	12¢
Pears	11¢

(3) For all apples, pears, stone fruits, berries, and grapes in bulk or in containers for processing, or for quality condition and/or size determination, charges shall be two dollars fifty cents per ton net weight or fraction thereof. When inspection is requested only for the purpose of verifying the product, conveyance, markings, or other factors not related to quality, the charges shall be at the hourly rate but not less than the minimum certificate charge of nine dollars.

**AMENDATORY SECTION** (Amending Order 1884, filed 4/2/86)

WAC 16-400-040 GRADE AND CONDITION CERTIFICATES—VEGETABLES. Charges for grade and condition certificates for all vegetables shall be:

(1) The minimum charge for all vegetables shall be ~~(:) nine dollars.~~

<del>((District one</del> .....	<del>\$6.00</del>
<del>District two</del> .....	<del>\$7.00</del>
<del>District three</del> .....	<del>\$8.00</del>
<del>District four</del> .....	<del>\$8.00))</del>

(2) Charges for grade and condition certificates for fresh market vegetables in containers—wrapped, place pack, face and fill, in bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins or in bags per cwt. or fraction thereof:

	((Districts			
	1	2	3	4
Asparagus .....	11.66¢	13.4¢	14.6¢	14.6¢
Cantaloupes, and Corn .....	10¢	11.5¢	12¢	12¢
Onions .....	5¢	5.75¢	6¢	6¢
Potatoes, and Seed Potatoes .....	4¢	4.6¢	5¢	5¢
Processing Potatoes .....	4¢	4.6¢	4¢	5¢
Complete inspection (rate shall be reduced for level of service required)				
Tomatoes .....	12.5¢	14.4¢	15¢	15¢))

(a) For federal-state certification:

Asparagus .....	21¢
Cantaloupes, and Corn .....	12.5¢
Onions .....	8¢
Potatoes, and Seed Potatoes .....	6¢
Processing Potatoes .....	6¢

Complete inspection (rate shall be reduced for level of service required)

Tomatoes .....	19¢
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(b) For state certification:

Asparagus .....	19¢
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(3) Inspection fees for cabbage, carrots, cauliflower, celery, cucumbers, lettuce, rhubarb, rutabagas, squash, watermelons, etc., shall be at the hourly rate ((as follows:)) of twenty dollars.

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

(4) Inspection for quality, condition, and/or size determination, whether in bulk or in containers, for all vegetables for processing, except potatoes, charges shall be two dollars fifty cents per ton net weight or fraction thereof. When inspection is requested only for the purpose of verifying the product, conveyance, markings, or other factors not related to quality, the charges shall be at the hourly rate, but not less than the minimum certificate charge of nine dollars.

**AMENDATORY SECTION** (Amending Order 1884, filed 4/2/86)

WAC 16-400-100 CERTIFICATES. Certificate charges shall be in accordance with the following provisions:

(1) Consolidation certificates shall be charged as specified in WAC 16-400-010 and 16-400-040 and shall have an additional charge of three dollars for each additional local lot.

(2) Condition certificate charges shall be two-thirds of the grade and condition certificates with the following exceptions:

(a) Previously inspected lots shall have a minimum charge of ~~((:)) nine dollars.~~

<del>((District one</del> .....	<del>\$6.00</del>
<del>District two</del> .....	<del>\$7.00</del>
<del>District three</del> .....	<del>\$8.00</del>
<del>District four</del> .....	<del>\$8.00))</del>

(b) When the lot has had no prior inspection for quality or grade and it is requested that the certificate carry out-bound car, truck, or state lot number, the grade and condition certificate schedule shall apply.

(c) Out-of-state products reported on state certificates shall be charged on the applicable grade and condition certificate schedule, except there shall be an hourly charge of ~~((:)) twenty dollars.~~

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

(3) Car hook-up, loading or unloading certificate shall be charged at the rates specified in subsection (2)(a) of this section.

(4) Sanitary and quarantine certificate charges for fruits and vegetables shall be:

(a) ~~((Four)) Six~~ dollars for the issuance of a certificate, plus the hourly rates specified in WAC 16-400-210 (1)(a) when the shipment is not covered by federal-state or state certificates.

(b) ~~((Four)) Six~~ dollars per set when the shipment is covered by federal-state or state certificates.

(5) Container weight, or checkloading certificates shall be charged at the rates specified in WAC 16-400-210 (1)(a).

(6) Federal-state certification shall meet the criteria for sampling as established by United States Department of Agriculture, Agricultural Marketing Service. When the federal-state inspector or inspector's aide must physically obtain samples from lots blocked out for loading or from lots in storage, charges of seven and one-half cents per cwt. shall be made in addition to inspection fees. When assistance is provided by the applicant's personnel, charges for sampling shall be reduced accordingly.

**AMENDATORY SECTION** (Amending Order 1845, filed 12/31/84, effective 2/1/85)

WAC 16-400-150 SHIPPING PERMITS AND CERTIFICATES OF COMPLIANCE—FRUITS AND VEGETABLES. By law, each shipment of apples, apricots, Italian prunes, peaches, pears, certified seed potatoes, and asparagus shall be covered by a shipping permit for grade; cherries shall have a shipping permit indicating freedom from cherry fruit fly larvae, whether certified or not. Shipments to processors of apricots, cherries, peaches, prunes, and asparagus do not require a shipping permit. If the lot has been certified, a permit or certificate of compliance shall be issued without additional charge. If the lot has not been certified, the basis of charges shall be:

(1) The minimum charge shall be two dollars fifty cents.

(2) Two-thirds the rate for state grade and condition certificates shall apply.

(3) Permit to ship apples and/or pears to a byproduct plant outside the district shall be three dollars.

(4) On certified seed potatoes no charge shall be made for shipping permits when seed potatoes are grown, graded, and shipped in full compliance with the provisions of the rules for the certification of seed potatoes, and the grades and standards for certified seed potatoes as listed in chapter 16-324 WAC.

**AMENDATORY SECTION** (Amending Order 1884, filed 4/2/86)

WAC 16-400-210 OTHER CHARGES. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, ~~((FV=294)) phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of ~~((:)) twenty dollars.~~~~

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

(b) Time allowance - Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of ~~((:)) twenty dollars.~~

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges - The minimum charge for supervision of fumigation shall be eighteen dollars ~~((for the first one and one-half~~

hours. Time over the first one and one-half hours or). Additional or unnecessary stand-by time shall be charged as specified in subsection (1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section.

(4) Seed sampling fees shall be arranged with the chemical and plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to ((the following:)) twenty-seven dollars.

(((District one .....	\$18.00
District two .....	\$20.00
District three .....	\$24.00
District four .....	\$22.00))

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February). ((no service will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5:00 p.m. on previous day:))

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

AMENDATORY SECTION (Amending Order 1845, filed 12/31/84, effective 2/1/85)

WAC 16-400-270 COPIES. Charges for copies made shall be: (1) Extra copies—After original typing of a certificate a charge of ((two)) four dollars per set shall be made for extra copies when requested by the original applicant of the certificate or other financially interested party. Copy machine copies of inspectors' notes, certificates or related documents when requested by applicant may be charged twenty-five cents per copy.

(2) Retyping or reissuance—When, through no fault of the inspection service, retyping or reissuance is necessary, such service shall be rendered for ((two)) four dollars per set.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-400-050 GRADE AND CONDITION CERTIFICATES—DEFENSE SUBSISTENCE SUPPLY CENTER OR OTHER FEDERAL AGENCIES.

**WSR 89-05-041**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning fruit storage, chapter 16-690 WAC;

that the agency will at 10:00 a.m., Wednesday, March 22, 1989, in the Ellensburg Inn, 1700 Canyon Road, Ellensburg, WA 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 31, 1989.

The authority under which these rules are proposed is chapter 15.30 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 22, 1989.

Dated: February 15, 1989  
By: J. Allen Stine  
Assistant Director

**STATEMENT OF PURPOSE**

Title: Chapter 16-690 WAC, Fruit storage.  
Description of Purpose: To remove reference to specific dollar amount of license fee.

Statutory Authority: Chapter 15.30 RCW.

Summary of Rules: The rule deletes reference to the dollar amount for annual license fee. New license fees are being established and included in the horticulture inspection fees, chapter 16-400 WAC.

Agency Personnel to Contact: James R. Archer, Commodity Inspection Division, Department of Agriculture, 406 General Administration Building, AX-41, Olympia, WA 98504, phone (206) 753-5054.

These rules are proposed by the Department of Agriculture.

Agency Comment: The rules are being proposed according to RCW 15.30.040.

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



Small Business Impact Statement: None.

AMENDATORY SECTION (Amending Order 893 (part), effective 10/1/62)

WAC 16-690-015 WASHINGTON CONTROLLED ATMOSPHERE STORAGE REQUIREMENTS—ANNUAL LICENSE. It shall be unlawful for any person to engage in the business of operating a controlled atmosphere storage warehouse or warehouses without first obtaining an annual license from the director. Such license shall expire on August 31st of any one year. (~~The annual license fee shall be five dollars.~~)

**WSR 89-05-042**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed February 15, 1989]

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 natural gas outdoor lighting, WAC 480-90-201, 480-90-206, 480-90-216, 480-90-221, 480-90-226, 480-90-231, 480-90-241, 480-90-246, 480-90-251, 480-90-256, 480-90-261, 480-90-266, 480-90-271, 480-90-276, 480-90-281 and 480-90-286. This is a notice of repeal of the forgoing sections.

Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed repeal on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17), Docket No. U-88-1867-R;

that the agency will at 9:00 a.m., Wednesday, March 22, 1989, 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 chapter 80.28 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 17, 1989.

Dated: February 14, 1989

By: Paul Curl  
Acting Secretary

**STATEMENT OF PURPOSE**

In the matter of repealing WAC 480-90-201, 480-90-206, 480-90-216, 480-90-221, 480-90-226, 480-90-231, 480-90-241, 480-90-246, 480-90-251, 480-90-256, 480-90-261, 480-90-266, 480-90-271, 480-90-276, 480-90-281 and 480-90-286 relating to natural gas lighting.

The rules repeal proposed by the Washington Utilities and Transportation Commission is 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 80.28 RCW.

The rules repeal proposed by the Washington Utilities and Transportation Commission is designed to repeal restrictions imposed by the Power Plant and Industrial Use Act of 1978 (42 U.S.C. § 8372) which prohibited use of natural gas for outdoor lighting. That act was repealed by P.L. 100-42 (1)(A)(4), and the restrictions are no longer necessary or desirable.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, phone (206) 753-6451, and members of his staff were responsible for the repeal of rules and will be responsible for implementation.

The proponent of the repeal is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040.

The rule change is not necessary as the result of federal law, or federal or state court action, but is in response to repeal of the basic federal legislation.

The rule repeal 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"

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 480-90-201 PROHIBITED FIXTURES.
- (2) WAC 480-90-206 EXEMPTIONS FIXTURES.
- (3) WAC 480-90-216 PROHIBITED SERVICE.
- (4) WAC 480-90-221 EXEMPTIONS—PROHIBITED SERVICE—LIGHTING OF HISTORICAL SIGNIFICANCE.
- (5) WAC 480-90-226 EXEMPTIONS—PROHIBITED SERVICE—MEMORIAL LIGHTING.
- (6) WAC 480-90-231 EXEMPTIONS—PROHIBITED SERVICE—COMMERCIAL LIGHTING OF A TRADITIONAL NATURE.
- (7) WAC 480-90-241 EXEMPTIONS—PROHIBITED SERVICE—SAFETY OF PERSONS AND PROPERTY.
- (8) WAC 480-90-246 EXEMPTIONS—PROHIBITED SERVICE—SUBSTANTIAL EXPENSE AND NOT COST JUSTIFIED.
- (9) WAC 480-90-251 EXEMPTIONS—PROHIBITED SERVICE—PUBLIC INTEREST.
- (10) WAC 480-90-256 EXEMPTIONS—STAYS.
- (11) WAC 480-90-261 TEMPORARY EXEMPTION—TIME TO INSTALL SUBSTITUTE LIGHTING.
- (12) WAC 480-90-266 UTILITY TO NOTIFY CUSTOMER.
- (13) WAC 480-90-271 PETITIONS FOR EXEMPTION.
- (14) WAC 480-90-276 ACTION FOR FAILURE TO COMPLY.
- (15) WAC 480-90-281 PROCEDURE FOR UNKNOWN PROHIBITED USE.
- (16) WAC 480-90-286 FAILURE OF UTILITY TO COMPLY.

**WSR 89-05-043**  
**PROPOSED RULES**  
**HIGHER EDUCATION PERSONNEL BOARD**

[Filed February 15, 1989]

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 251-08-110 Salary—Promotion.
- New WAC 251-10-070 Separation due to mental or physical incapacity.
- New WAC 251-10-080 Reasonable accommodation—Reemployment.
- New WAC 251-10-090 Reasonable accommodation—Probationary period.
- Amd WAC 251-17-090 Examination—Eligibility.
- Amd WAC 251-18-180 Eligible lists—Definition—Composition.
- Amd WAC 251-24-030 Training and development programs—Content.
- Amd WAC 251-11-100 Dismissal—Union shop—Notice—Recision.
- Amd WAC 251-12-075 Appeals from alleged violations of HEPB law or rules.
- New WAC 251-12-087 Hearings on exceptions from director's determination.
- Amd WAC 251-14-110 Arbitration—Collective bargaining impasse—Grievance disputes;

that the agency will at 9:00 a.m., Thursday, March 2, 1989, in the Terry-Lander Hall, Room L129, University of Washington, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 2, 1989.

This notice is connected to and continues the matter in Notice Nos. WSR 89-01-068, 89-01-069 and 89-01-070 filed with the code reviser's office on December 20, 1988.

Dated: February 15, 1989  
 By: John A. Spitz  
 Director

**WSR 89-05-044**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed February 15, 1989]

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 overtime provisions and compensation, amending WAC 356-15-030;

that the agency will at 10:00 a.m., Thursday, April 13, 1989, in the Board Hearings Room, Department of

Personnel, 521 South Capitol 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 April 11, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-02-009 filed with the code reviser's office on December 28, 1988.

Dated: February 13, 1989  
 By: Robert Boysen  
 Acting Director

**WSR 89-05-045**  
**NOTICE OF PUBLIC MEETINGS**  
**SEATTLE COMMUNITY COLLEGES**  
 [Memorandum—February 8, 1989]

The board of trustees of Seattle Community College District has scheduled a special executive session, to meet Tuesday, February 21, 1989, at 1:00 p.m., in the Arthur Siegal Education and Service Center, 1500 Harvard, Seattle, WA 98122.

**WSR 89-05-046**  
**WITHDRAWAL OF PROPOSED RULES**  
**SKAGIT VALLEY COLLEGE**  
 [Filed February 15, 1989]

We hereby withdraw WSR 89-05-012 which was filed with your office on February 9, 1989. There was a clerical error and chapter 132D-12 WAC was to have been repealed, but chapter 132D-20 WAC was mistakenly attached to the notice of intention to adopt and the statement of purpose.

We will refile the notice of intention to adopt with the proper WAC rule attached.

Wendy Bohlke  
 Assistant Attorney General

**WSR 89-05-047**  
**PROPOSED RULES**  
**SKAGIT VALLEY COLLEGE**  
 [Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Skagit Valley College, Community College District No. 4, intends to adopt, amend, or repeal rules concerning petition for promulgation, amendment or repeal of rule, repealing chapter 132D-12 WAC;

that the institution will at 4 o'clock p.m., Tuesday, April 11, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mt. Vernon, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 11, 1989, 7 p.m.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 10, 1989.

Dated: February 13, 1989

By: Wendy Bohlke  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Title and Number of Rule: Repealing chapter 132D-12 WAC, Petition for promulgation, amendment or repeal of rule.

Statutory Authority: RCW 28B.50.140 (7)(9).

Specific Statute that Rule is Intended to Implement: N/A.

Summary of Rules: Chapter 132D-12 WAC is no longer valid due to legislative enactment of such authority in chapter 28B.16 RCW.

Reasons Supporting the Proposed Rules: N/A.

Agency Personnel Responsible for Drafting: Wendy Bohlke, AAG, 320 BNB, 103 East Holly, Bellingham, WA 98225, 738-2037 scan; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mt. Vernon, WA 98273.

Name of Person Proposing the Rules: Wally Sigmar.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with the federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: N/A.

Chapter 132D-23 WAC

**PETITION FOR PROMULGATION, AMENDMENT OR REPEAL OF RULE**

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

(1) WAC 132D-12, PETITION FOR PROMULGATION, AMENDMENT OR REPEAL OF RULE.

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

**Reviser's note:** The repealer appears as filed by the institution pursuant to RCW 34.08.040, however the reference to section is probably intended to be to chapter.

**WSR 89-05-048**  
**PROPOSED RULES**  
**SKAGIT VALLEY COLLEGE**  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Skagit Valley College, Community College District No. 4, intends to adopt, amend, or repeal rules concerning:

- Rep ch. 132D-36 WAC Implementation of State Environmental Policy Act.
- New ch. 132D-325 WAC State Environmental Policy Act rules;

that the institution will at 4 o'clock p.m., Tuesday, April 11, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mt. Vernon, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 11, 1989, at 7:00 p.m.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 10, 1989.

Dated: February 13, 1989

By: Wendy Bohlke  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Title and Number of Rule Chapter: Adopting chapter 132D-325 WAC, State Environmental Policy Act rules and repealing chapter 132D-36 WAC.

Statutory Authority: RCW 28B.50.140 (7)(9).

Specific Statute that Rule is Intended to Implement: N/A.

Summary of Rules: The State Environmental Policy Act requires agency to have such rules.

Reasons Supporting the Proposed Rules: As stated above.

Agency Personnel Responsible for Drafting: Wendy Bohlke, AAG, 320 BNB, 103 East Holly, Bellingham, WA 98225, 738-2037 scan; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mt. Vernon, WA 98273, 542-1180 scan.

Name of Person Proposing the Rules: Wally Sigmar.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with the federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: N/A.

**STATE ENVIRONMENTAL POLICY ACT RULES**

**NEW SECTION**

WAC 132D-325-010 IMPLEMENTATION OF STATE ENVIRONMENTAL POLICY ACT. (1) It shall be the policy of Community College District No. 4 that all actions taken by the district shall comply with the provisions of Chapter 43.21C RCW (the State Environmental Policy Act), chapters 197-10 and 131-24 WAC, as presently enacted or hereafter amended.

(2) The president of Community College District No. 4 or his or her designee shall be responsible for administering and implementing this policy.

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

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

(1) WAC 132D-36, IMPLEMENTATION OF STATE ENVIRONMENTAL POLICY ACT.

**Reviser's note:** The repealer appears as filed by the institution pursuant to RCW 34.08.040, however the reference to section is probably intended to be to chapter.

**WSR 89-05-049  
PROPOSED RULES  
WESTERN WASHINGTON UNIVERSITY  
[Filed February 15, 1989]**

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the board of trustees, Western Washington University, intends to adopt, amend, or repeal rules concerning:

Amd	ch. 516-22 WAC	Student rights and responsibilities.
New	ch. 516-28 WAC	Standards and procedures for involuntary administrative withdrawal of students at Western Washington University for behavior from mental disorders;

that the institution will at 3 o'clock p.m., Tuesday, April 4, 1989, in the Viking Annex 460, Western Washington University Campus, 516 High Street, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1989.

The authority under which these rules are proposed is RCW 28B.35.120(12).

The specific statute these rules are intended to implement is none.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 3, 1989.

Dated: February 13, 1989  
By: Wendy Bohlke  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Title and Number of Rule: Chapter 516-22 WAC, Student rights and responsibilities; and chapter 516-28 WAC, Standards and procedures for involuntary administrative withdrawal of students at Western Washington University for behavior from mental disorders.

Statutory Authority: RCW 28B.35.120(12).

Specific Statute that Rule is Intended to Implement: None.

Summary of Rules: Amendments to rules on student rights and responsibilities to include alcohol/drug violations and harassment. Procedures for suspension of students demonstrating behavior indicating mental disorders which causes such students to present a serious threat of harm to themselves or others.

Reasons Supporting the Proposed Rules: Chapter 516-22 WAC, the university has identified two additional types of behaviors to be included in actionable offenses under the conduct system: Alcohol/drug policy violations, and harassment of others by students. The addition of educational components to available sanctions is congruent with the university goal of educational conduct system; and chapter 516-28 WAC, under existing regulations, the university was unable to address issues concerning students with mental disorders. It has become apparent that regulations were needed to allow for immediate suspension of students demonstrating mental disorders where such student's behavior indicates a potential danger to themselves and others. These procedures include a right to a hearing and an articulated process for a psychiatric evaluation by nonuniversity personnel.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037, 738-2037 scan; and Implementation: Sandra Taylor, Vice-President and Dean of Student Affairs, Western Washington University, Bellingham, WA 98225, (206) 676-3846, 532-3846 scan.

Name of Person Proposing the Rules: Sandra Taylor, Vice-President and Dean of Student Affairs, Western Washington University.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None at this time.

The rule is not necessary to comply with the 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.

**NEW SECTION**

WAC 516-22-035 ALCOHOL/DRUG POLICY VIOLATIONS. Substance abuse by members of the university community impacts the quality of the educational experience of all students. Two or more violations of alcohol/drug policies or a single substantive violation including, but not limited to, the sale of illegal substances or violence to others while under the influence of alcohol/drugs, shall make the student subject to disciplinary action.

Sanctions available to the university through its judicial structure are disciplinary probation, disciplinary suspension, or disciplinary expulsion.

**NEW SECTION**

WAC 516-22-040 HARASSMENT OF PEERS. A quality educational experience can only occur in an environment free of harassment and exploitation. A student shall be subject to disciplinary action if he/she engages in harassing behaviors including any act that creates an intimidating, hostile, or offensive environment for another member of the university community including, but not limited to, those of a physically threatening, sexual, or racial nature.

Sanctions available to the university through its judicial structure are disciplinary probation, disciplinary suspension, or disciplinary expulsion.

AMENDATORY SECTION (Amending Order 5-6-82, Resolution No. 5-6-82, filed 5/14/82)

WAC 516-22-138 CERTAIN SANCTIONS DEFINED. Among those sanctions which the conduct officer or judicial board may invoke are:

(1) Disciplinary probation – an official warning which is maintained in the student's conduct file for seven years. Should the student be found in violation of the code again, the disciplinary probation status may result in a more serious sanction for the second violation.

(2) Disciplinary suspension – termination of a student's enrollment for a period of time or until certain specified conditions have been met.

(3) Disciplinary expulsion – permanent termination of a student's enrollment with no option for later reenrollment.

Conditions congruent with the nature of the charge can be added to these sanctions, included but not limited to: Restitution for damages, attendance at educational programs, university community service, restriction of access to designated areas of campus. Failure to comply with sanctioned conditions can result in further action under the provisions of the code.

AMENDATORY SECTION (Amending Order 5-6-82, Resolution No. 5-6-82, filed 5/14/82)

WAC 516-22-210 COMMITTEE ON STUDENT RIGHTS AND RESPONSIBILITIES. There is established a committee on student rights and responsibilities to be composed of ~~((four))~~ five students: ~~((One appointed by inter-hall council, one appointed by the president of the associated students, one appointed by the associated students' governing board, and one selected at large from the student body;))~~ Three appointed by the associated students board of directors including at least one graduate student, and two appointed by university residence's interhall council; one member of the student affairs staff appointed by the vice-president for student affairs; one faculty member appointed by the faculty senate; ~~((the dean of students and the director of safety and security))~~ the university conduct officer; one member of the university security staff appointed by the director of public safety; and one member of the university residences' staff.

(1) The primary purpose of the committee on student rights and responsibilities shall be to evaluate the university's "student rights and responsibilities code." The committee may provide interpretations or may recommend changes in policy concerning student rights and responsibilities.

(2) The committee shall act as appellate group for decisions by the vice-president for student affairs to withhold certain records from students; shall act as appellate group in accordance with WAC 516-26-060 if informal proceedings fail to resolve complaints of students; and shall provide the review and revision mechanism for recommending changes in the "student records policy," chapter 516-26 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 516-22-200 ALTERNATIVE JUDICIAL PROCEEDING.

WAC 516-22-250 FAIRHAVEN COLLEGE JURISDICTION.

Chapter 516-28 WAC  
STANDARDS AND PROCEDURES FOR INVOLUNTARY ADMINISTRATIVE WITHDRAWAL OF STUDENTS AT WESTERN WASHINGTON UNIVERSITY FOR BEHAVIOR FROM MENTAL DISORDERS

## WAC

516-28-010	Preamble.
516-28-015	Standards for withdrawal.
516-28-020	Referral for evaluation.
516-28-025	Interim withdrawal.
516-28-030	Notice of interim withdrawal.
516-28-035	Assistance in proceeding.
516-28-040	Informal hearing.
516-28-045	Informal hearing guidelines.
516-28-050	Deviations from established procedures.
516-28-060	Relationship to student rights and responsibilities code.
516-28-065	Reinstatement.

NEW SECTION

WAC 516-28-010 PREAMBLE. Western Washington University students enjoy the basic rights of all members of society. At the same time the student is expected to respect university rules and federal, state, and local laws. Those students who because of mental disorders are unable to do so and who represent a serious threat to themselves or others and therefore may need to be administratively withdrawn from attendance at Western Washington University are assured of a fair judicial process; at the same time, other students, faculty, and staff at Western Washington University are assured of relief from disruption of the mission of the university caused by those with behavioral problems stemming from mental disorders. This chapter advises students of their rights and responsibilities regarding behavior arising from mental disorders while enrolled at Western Washington University, and of the process the university will take if involuntary administrative withdrawal is indicated.

NEW SECTION

WAC 516-28-015 STANDARDS FOR WITHDRAWAL. A student will be subject to involuntary administrative withdrawal from Western Washington University if it is determined that the student is suffering from a mental disorder (as defined in the American Psychiatric Association Diagnostic and Statistical Manual), and, as a result of the mental disorder (1) engages, or threatens to engage, in behavior which poses a danger of causing physical harm to self or others; or (2) engages, or threatens to engage, in behavior which would cause significant property damage, or directly and substantially impedes the lawful activities of others. These standards do not preclude removal from Western Washington University in accordance with provisions of other laws, rules, or regulations.

NEW SECTION

WAC 516-28-020 REFERRAL FOR EVALUATION. The vice-president for student affairs may refer a student for evaluation by a licensed psychiatrist or psychologist chosen by but not affiliated with the university, if:

(1) He/she believes that the student may meet the criteria set forth in WAC 516-28-015; or

(2) A student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder. Results of this evaluation shall be forwarded to the vice-president for student affairs.

Students referred for evaluation shall be so informed in writing, either by personal delivery or certified mail, and shall be given a copy of this code. The evaluation must be completed within five business days from receipt of the referral letter, unless a written extension is given by the vice-president for student affairs or his/her designee. Students may be accompanied by a licensed psychologist or psychiatrist of their choice, who may observe but not participate in the evaluation process. Legal representation at the evaluation will not be permitted.

Any pending disciplinary action may be withheld until the evaluation is completed, at the discretion of the vice-president for student affairs.

A student who fails to complete the evaluation in accordance with these standards and procedures may be withdrawn on an interim basis, or referred for disciplinary action, or both.

NEW SECTION

WAC 516-28-025 INTERIM WITHDRAWAL. An interim administrative withdrawal may be implemented immediately if a student fails to complete an evaluation as provided above, or if the vice-president for student affairs determines that a student may be suffering from a mental disorder, and the student's behavior poses an imminent danger of:

(1) Causing serious physical harm to the student or others; or  
(2) Causing significant property damage, or directly and substantially impeding the lawful activities of others.

NEW SECTION

WAC 516-28-030 NOTICE OF INTERIM WITHDRAWAL. A student subject to an interim withdrawal shall be given written notice of the withdrawal either by personal delivery or by certified mail, and shall be given a copy of this code. The student will also be given

an opportunity to appear personally before the vice-president for student affairs or his/her designee, within two business days from the effective date of the interim withdrawal, in order to review the following issues only:

- (1) The reliability of the information concerning the student's behavior;
- (2) Whether or not the student's behavior poses a danger of causing imminent serious physical harm to the student or others, causing significant property damage, or directly and substantially impedes the lawful activities of others;
- (3) Whether or not the student has completed an evaluation, in accordance with these standards and procedures; and

(4) For what purposes and under what conditions the student may enter the campus pending completion of the informal hearing process.

If, after the meeting between the vice-president for student affairs or his/her designee and the student, the vice-president for student affairs or his/her designee maintains the same position as to the student's need for an evaluation by a mental health professional, such evaluation should take place within two business days after the student submits a request for an appointment with the mental health professional.

NEW SECTION

WAC 516-28-035 ASSISTANCE IN PROCEEDING. A student subject to interim withdrawal may be assisted in the proceeding specified in WAC 516-28-030 by a family member and a licensed psychologist or psychiatrist or a member of the faculty or staff of the university. Furthermore, the student may be accompanied by legal counsel, whose role will be limited to providing legal advice to the student. Students will be expected to speak for themselves whenever possible.

NEW SECTION

WAC 516-28-040 INFORMAL HEARING. An informal hearing will be held within seven business days after the student has been evaluated by the appropriate mental health professional. The student will remain withdrawn on an interim basis pending completion of the informal hearing, but will be allowed to enter the campus to attend the hearing, or for other necessary purposes as preauthorized by the vice-president for student affairs.

NEW SECTION

WAC 516-28-045 INFORMAL HEARING GUIDELINES. Students subject to an involuntary withdrawal shall be accorded an informal hearing before the vice-president for student affairs or his/her designee, utilizing the following guidelines:

- (1) Students will be informed to the time, date, and location of the informal hearing in writing, either by personal delivery or certified mail, at least two business days in advance.
- (2) The case file shall include an evaluation prepared by the mental health professional and the names of prospective witnesses. This file will be available for inspection by the student in the office of the vice-president for student affairs during normal business hours. This file will be available at least two business days prior to the informal hearing.
- (3) The informal hearing shall be conversational and nonadversarial. Formal rules of evidence will not apply. The vice-president for student affairs or his/her designee shall exercise active control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.
- (4) The student may choose to be assisted by a family member, a licensed psychiatrist or psychologist, or by a member of the faculty or staff of the university. Furthermore, the student may be accompanied by legal counsel, who is limited to providing legal advice to the student.
- (5) Whenever possible, the student will be expected to respond to questions asked by the vice-president for student affairs or his/her

designee. A student who refuses to answer on grounds of Fifth Amendment privilege may be informed that the vice-president for student affairs or his/her designee may draw a negative inference from the refusal which might result in dismissal from the institution in accordance with these standards and procedures.

- (6) Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant evidence.
- (7) The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.

(8) A university official and/or a licensed psychiatrist or psychologist who prepared the evaluation report may be expected to appear at the informal hearing, and to respond to relevant questions or present evidence upon request of any party involved, if the vice-president for student affairs or his/her designee determines that such participation is essential to the resolution of the case.

(9) The informal hearing shall be tape-recorded and kept with the pertinent case file in the confidential records of the vice-president for student affairs for six years, following which the records will be destroyed. During this period, the records will be accessible only upon approval of the vice-president for student affairs and then only for compelling reasons.

(10) A written decision shall be rendered by the vice-president for student affairs or his/her designee within five business days after the completion of the informal hearing. The written decision, which will be personally delivered or sent by certified mail, shall contain a statement of reasons for any determination leading to involuntary withdrawal. The student will also be advised as to when a petition for reinstatement would be considered, along with any conditions of reinstatement.

(11) The decision of the vice-president for student affairs or his/her designee shall be final and not subject to appeal.

NEW SECTION

WAC 516-28-050 DEVIATIONS FROM ESTABLISHED PROCEDURES. Deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.

NEW SECTION

WAC 516-28-060 RELATIONSHIP TO STUDENT RIGHTS AND RESPONSIBILITIES CODE. A student accused of engaging in conduct subject to disciplinary action pursuant to chapter 516-22 WAC may be diverted from that disciplinary process and withdrawn according to these standards and procedures if the student, as a result of mental disorder (1) lacks the capacity to respond to pending disciplinary charges or (2) did not know the nature of wrongfulness of the conduct at the time of the offense.

Students otherwise subject to disciplinary charges who wish to introduce relevant evidence of any mental disorder must so inform the vice-president for student affairs in writing at least two business days prior to any disciplinary hearing under chapter 516-22 WAC. If the vice-president for student affairs determines that the evidence may have merit, the case shall then be resolved in accordance with this chapter. If the vice-president for student affairs determines that the student does not meet the criteria set forth in this chapter, the case will be returned to the disciplinary process. The determination by the vice-president for student affairs shall be made within five days after the student's written submittal. Evidence of any mental disorder may not be admitted into evidence or considered by the hearing panel in any disciplinary proceeding under chapter 516-22 WAC.

NEW SECTION

WAC 516-28-065 REINSTATEMENT. Should the above process result in a decision that the student is capable of attending classes at Western Washington University, the vice-president for student affairs or his/her designee shall take equitable measures to mitigate the effects of the withdrawal upon the student.

**WSR 89-05-050**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER**  
 [Filed February 15, 1989]

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 the amending of WAC 284-23-550 to eliminate any advantage its provisions may have given mutual insurers over other insurance companies and to broaden choices available to purchasers of life insurance, while providing safeguards against exploitation of consumers who purchase small amounts of life insurance at older ages;

that the agency will at 9:30 a.m., Tuesday, March 21, 1989, in the Auditorium, 1st Floor, General Administration Building, 11th and Columbia Streets, 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 48.02.060.

The specific statute these rules are intended to implement is RCW 48.30.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989. Mailing address: Insurance Building, AQ-21, Olympia, Washington 98504-0321.

Dated: February 13, 1989  
 Dick Marquardt  
 Insurance Commissioner  
 By: David H. Rodgers  
 Chief Deputy  
 Insurance Commissioner

#### STATEMENT OF PURPOSE

This proposed rule will amend WAC 284-23-550 to eliminate any advantage a mutual insurer might have over other types of insurance companies and to broaden the availability of small life insurance policies at older ages, while providing safeguards against exploitation of consumers who purchase small amounts of life insurance at older ages.

Statutory Authority: RCW 48.02.060 and 48.30.010.

This rule is not required as a result of federal law or federal or state court action.

Agency Personnel Responsible: Chief Deputy Insurance Commissioner, David H. Rodgers, is responsible for the drafting of the proposed amendment to WAC 284-23-550. It will be implemented and enforced, as appropriate, by the company supervision and consumer protection divisions of the Insurance Commissioner's Office under the direct supervision of Chief Deputy Rodgers. His address is Insurance Building, AQ-21, Olympia, Washington 98504, (206) 753-7302.

The rule is proposed by Dick Marquardt, the insurance commissioner, a state public official.

Small Business Economic Impact Statement: Because the amendment permits life insurers to offer a policy

form not heretofore permitted by WAC 284-23-550, licensees who take advantage of the opportunity to offer policy forms permitted by this amendment will incur added expense in developing new products. Presumably, the development of the new products will generate opportunities for new income. In no case is action required of any insurer by this amendment. Small companies will not be affected any differently than large insurers.

#### AMENDATORY SECTION (Amending Order R 89-3, filed 2/9/89)

WAC 284-23-550 RELATIONSHIP OF DEATH BENEFITS TO PREMIUMS—UNFAIR PRACTICE DEFINED. (1) It is an unfair practice for any insurer to provide life insurance coverage on any person through a policy or certificate of coverage delivered on or after April 1, 1989, to or on behalf of such person in this state, unless the benefit payable at death under such policy or certificate will equal or exceed the cumulative premiums, as defined in subsection (4) of this section, paid for the policy or certificate, plus interest thereon at the rate of five percent per annum compounded annually to the tenth anniversary of the effective date of coverage.

(2) This section applies to death benefits in relation to premiums, subject to the following provisions:

(a) When determining the relationship between benefits and premiums as set forth in subsection (1) of this section, neither premiums nor death benefits shall be adjusted for maturity benefits, surrender benefits, or policy loans.

(b) Annuity benefits, including annuity death benefits, and the premiums therefor shall be disregarded in applying this section.

(c) The following benefits, but not the premiums therefor, shall be disregarded in applying this section:

(i) Accidental death benefits;

(ii) Permanent disability benefits; and

(iii) Any benefit similar to (c)(i) or (ii) of this subsection.

(3) For coverage which varies by duration, including coverage provided through dividends, the "benefit payable at death" for purposes of this section is the sum of the least death benefit during each policy year, for the lesser of ten years or the term of the coverage, including renewals, divided by the number of death benefits included in said sum.

(4) "Cumulative premiums," for purposes of this section, means all sums paid as consideration, net of dividends paid in cash in an orderly progression, for the coverage during the first ten years of the coverage, excluding amounts which are designated in the policy or certificate as providing for annuity benefits.

(5) The benefits required by this section shall be provided contractually. If the policy or certificate must rely on dividends or "nonguaranteed" premiums or benefits to obtain compliance, then said policy or certificate shall contain a provision guaranteeing compliance.

(6) This section does not apply to:

(a) Life insurance where the minimum death benefit is twenty-five thousand dollars or more; or

(b) Group life insurance coverage unless the insured pays all or substantially all of the premium; or

(c) Limited payment whole life insurance where ~~((the death benefit is constant and))~~ the premiums are level at all times, if the least death benefit payable at any time exceeds the total of all premiums which, in the absence of death, would have been paid over the entire limited payment((s)) period.

(7) Approval of the policy forms which do not comply with this section is hereby withdrawn effective April 1, 1989.

**WSR 89-05-051**  
**NOTICE OF PUBLIC MEETINGS**  
**TRAFFIC SAFETY COMMISSION**  
 [Memorandum—February 14, 1989]

It has become necessary to reschedule our March commission meeting from March 1, 1989, to March 22, 1989. We are also going to change the location to our conference room here.

The time of the meeting will be at 1:30 p.m. If you need assistance with travel arrangements, please contact Susie.

**WSR 89-05-052**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 15, 1989]

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 Personal property exemption—Exceptions, new section WAC 458-16-115;

that the agency will at 10:00 a.m., Tuesday, March 21, 1989, 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 84.36.865.

The specific statute these rules are intended to implement is RCW 84.36.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

Dated: February 15, 1989  
 By: Steven L. Frisch  
 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 458-16-115 Personal property exemption—Exceptions.

Purpose: To achieve uniformity in the taxation of real property.

Statutory Authority: RCW 84.36.865 directs the Department of Revenue to adopt rules necessary or desirable for the effective administration of property tax exemptions.

Summary and Reasons for the Rule: The rule provides that property which would be defined as real property but for the existence of a lease shall not be allowed a personal property tax exemption.

Drafter of the Rule: Larry D. Stout, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 586-4739; and Rule Implementation and Enforcement: Steve Frisch, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 753-5503.

Proposer of the Rule: Department of Revenue, Olympia, Washington 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: None.

Small Business Impact: None.

NEW SECTION

WAC 458-16-115 PERSONAL PROPERTY EXEMPTION - EXCEPTIONS. (1) The personal property exemption in RCW 84.36.110 shall not apply to leased real property.

**WSR 89-05-053**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 15, 1989]

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 458-53-020	Definitions.
Amd	WAC 458-53-030	Stratification of assessment rolls—Real property.
Amd	WAC 458-53-070	Sales studies.
Amd	WAC 458-53-100	Use of county sales studies.
Amd	WAC 458-53-110	Property values used in the ratio study.
Amd	WAC 458-53-150	Indicated real property ratio—Computation.
Amd	WAC 458-53-163	Mobile homes—Use in study;

that the agency will at 9:00 a.m., Tuesday, March 21, 1989, 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 84.48.075.

The specific statute these rules are intended to implement is RCW 84.48.075.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

Dated: February 14, 1989  
 By: Steven L. Frisch  
 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 458-53-020 Definitions; 458-53-030 Stratification of assessment rolls—Real property; 458-53-070 Sales studies; 458-53-100 Use of county sales studies; 458-53-110 Property values used in the ratio study; 458-53-150 Indicated real property ratio—Computation; and 458-53-163 Mobile homes—Use in study.

Purpose: To amend the calculation of average market value for ratio purposes and to amend the treatment of mobile homes for ratio purpose.

Statutory Authority: RCW 84.48.075 directs the Department of Revenue to adopt rules pertinent to the determination of the indicated ratio.

Summary and Reasons for the Rule: These rules establish the calculations used to determine real and personal property tax ratios, and also provide how mobile homes are to be treated for the purposes of the indicated ratio.



Drafter of the Rule: Larry D. Stout, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 586-4739; and Rule Implementation and Enforcement: Steve Frisch, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 753-5503.

Proposer of the Rule: Department of Revenue, Olympia, Washington 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: None.

Small Business Impact: None.

**AMENDATORY SECTION** (Amending Order PT 79-3, filed 10/11/79)

WAC 458-53-020 DEFINITIONS. (1) "Advisory values" mean the true and fair value determinations by department appraisers or auditors made at the request of the county assessor.

(2) "Appraisal" means the determination of the true and fair value of real property by department appraisers or county appraisers certified under RCW 36.21.015.

(3) "Audit" means the determination of true and fair value of taxable personal property through examination of the records of the property owner by department auditors or county auditors of the assessor's staff who are qualified by training and experience in making such examinations.

(4) "Average assessed value" is the total county assessed value of a sample grouping or classification of real or personal property divided by the number of properties in the sample.

(5) "Average true and fair personal property value" is the total value of a sample grouping or classification as determined from personal property audits divided by the number of audits in the sample group.

(6) "Average market value" is the total sales price, less (five) one percent, of a sample grouping or classification of real property divided by the number of properties in the sample, or the total appraised value of a sample grouping or classification of real property divided by the number of appraisals in the same group.

(7) "Department" means the department of revenue.

(8) "Director" means the director of revenue.

(9) "Land Use Code" as designated by the department means the identification of each real property parcel by numerical digits as representations of the actual major use of the property. This Land Use Code is derived from the Standard Land Use Coding Manual as prepared by the Federal Bureau of Public Roads.

(10) "Personal property" for the purpose of the ratio rules means the items of personal property as identified on the county assessment roll, and it shall include all personal property required to be reported by the taxpayer under RCW 84.40.185, but excluding property owned by and assessed to another taxpayer.

(11) "Ratio" is the percentage relationship of real property assessed value to the true and fair value of real property as determined by real property sales, by department appraisals, or by department approved county appraisals; or the percentage relationship of personal property assessed value to the true and fair value of personal property as determined from department audits or from department approved county audits.

(12) "Ratio study" is the department's annual comparison of the relationship between the county assessed values of real and personal property with the true and fair value of that property as determined by the department's analysis of sales, appraisals, and/or audits.

(13) "Sales study" is the comparison of the assessed value of real property with the selling price of the same property.

(14) "Stratification" means the grouping of the real or personal property assessment records into specific assessed value classes and/or use code classes for measurement purposes.

(15) "Stratum" refers to a single class of property with a given range of assessed value or having the same use code.

(16) "Strata" refer to classes of property grouped by assessed value and/or use codes.

(17) "Taxable real property parcels" means all real property parcels shown as subject to taxation on the county assessment record.

(18) "Trending" consists of adjusting the sales price of a property or the appraisal value from the time of sale or appraisal to a specific point in time which is the January 1 assessment date of the study. Trending will be for time only and developed from market data only.

(19) "True and fair value" means market value and has the same meaning as defined by WAC 458-12-300.

**AMENDATORY SECTION** (Amending Order PT 86-6, filed 10/2/86)

WAC 458-53-030 STRATIFICATION OF ASSESSMENT ROLLS—REAL PROPERTY. (1) The stratification process is the grouping of data into meaningful classifications for informational or analytical purposes. Stratification is used in determining the number of appraisals or audits needed for ratio study purposes and also is used in actual ratio computation. The latest available official county assessment roll values are used in ratio study stratification procedures.

Assessed valuation presently forms the basis for stratification of assessment rolls and is used because the nature of most assessors' records provides a state-wide uniformity for this characteristic. Also, the values in this classification generally are indicative of property types. By not later than the 1982 assessment year a land use classification system will replace the value stratification as assessors' records uniformly reflect properties according to their use.

(2) The stratification of the real property assessment rolls will include a parcel count of the taxable real property parcels less forest lands, current use properties in those counties where a separate study is conducted pursuant to WAC 458-53-110(4), and state assessed properties. For the real property ratio study, the assessment roll will be stratified for individual counties according to the following assessed value strata, including an upper limit strata containing a representative number of parcels.

\$	0 - \$ 19,999
	20,000 - 39,999
	40,000 - 59,999
	60,000 - 99,999
	100,000 - 199,999
	200,000 - and over

Upper value stratas:

\$ 40,000—and over —	Columbia, Ferry, Garfield, Pend Oreille, Wahkiakum.
\$ 60,000—and over —	Asotin, Lincoln, Pacific, Skamania.
\$ 100,000—and over —	Adams, Douglas, Island, Jefferson, Kittitas, Klickitat, Mason, Okanogan, Stevens, Whitman.
\$ 200,000—and over —	Benton, Chelan, Clallam, Cowlitz, Franklin, Grant, Grays Harbor, Lewis, San Juan, Skagit, Thurston, Walla Walla.

The stratas listed below will apply to those counties indicated.

\$	0 - \$ 19,999
	20,000 - 39,999
	40,000 - 59,999
	60,000 - 99,999
	100,000 - 299,999
	300,000 - and over

Clark, Kitsap, Whatcom, Yakima

\$	0 - \$ 19,999
	20,000 - 39,999
	40,000 - 59,999
	60,000 - 99,999
	100,000 - 199,999
	200,000 - 999,999
	1,000,000 - and over

King, Pierce, Snohomish, Spokane

(3) In counties with the ability to stratify by land use classification under standards set by the department, the assessed value strata will be \$0 and over for each type of property summarized in WAC 458-53-050, excluding forest lands, current use properties and state assessed properties.

(4) The stratification process will be performed by the department or by the county with data processing capability adequate to meet the standards as provided by the department.

(5) A count of taxable real property parcels, less forest lands, current use properties in those counties where a separate study is conducted pursuant to WAC 458-53-110(4), and state assessed properties, in each value stratification is necessary for computation of the county ratio. Multiplying an average sample sales value, an average

sample appraisal value, or an average assessed value by the number of taxable parcels in the county produces an estimated total market value or total estimated assessed value used in ratio computation.

(6) In the stratification of county taxable real property parcels to be used in the ratio study, the count of these parcels shall exclude designated and classified timber or forest lands, open space (current use) lands and improvements in those counties where a separate study is conducted pursuant to WAC 458-53-110(4) (~~and mobile homes as provided for in WAC 458-53-163(2)~~). These are deleted from use in the sales study and will be considered separately and included in ratio determinations after computations of sales data have been completed.

**AMENDATORY SECTION** (Amending Order PT 83-2, filed 8/1/83)

WAC 458-53-070 SALES STUDIES. (1) Real property sales data obtained from the real estate excise tax sales affidavits will form the basis of the sales study in each county. Validation of these sales as arms-length transactions will follow department criteria as provided in WAC 458-53-080.

(2) The department's sales study will be used as the basis for the real property ratios. In addition, the department will supplement the sales study results with appraisals in any assessed value stratum or Land Use Code classification where sales are judged to be insufficient to represent all properties in that stratum or land use class according to criteria set out in these rules.

(3) ~~((Five))~~ One percent will be deducted from the sales price shown on the affidavit on all valid real property sales as an adjustment for values transferred that are not assessable as real property.

(4) Sales not deemed representative for use in the study, as defined by the deletion list in WAC 458-53-080 will be eliminated from consideration in ratio computation. Sales used in the study will include only those which occurred over an eight month period between August 1 preceding January 1 of the assessment year and March 31 of the assessment year.

(5) Individual valid sales having a resultant assessment sales ratio under twenty-five percent or over one hundred seventy-five percent shall be excluded from consideration in the study: PROVIDED, That this subsection shall not apply if the number of sales meeting this criteria exceeds ten percent of the total number of sales that would be used in the study subject to the provisions of this subsection: PROVIDED FURTHER, That this subsection shall not apply to any type of property not properly valued and subject to the provisions of WAC 458-53-165.

**AMENDATORY SECTION** (Amending Order PT 84-2, filed 6/29/84)

WAC 458-53-100 USE OF COUNTY SALES STUDIES. (1) If agreed upon by the department and the assessor, the department will use a county sales study, providing it is made according to the standards specified in these rules. Any such agreement shall provide that counties generating their own sales studies will use all or an agreed upon percentage of sales validated by department standards, and that the county shall furnish the department with data from sales deemed invalid as well as those deemed valid and give the reason for deeming invalid any particular sale. All such county studies shall be subject to department audit.

(2) The county-generated sales study will include the following:

(a) All agreed to real property transactions occurring in a county shall be used in the study and shall be for a period of eight consecutive months. Sales transactions used will include only those which occur between August 1 preceding January 1 of the assessment year and March 31 of the assessment year.

(b) Sales of properties identified on the published department of revenue deletion list (WAC 458-53-080) will be removed from the sales analysis study and separately will be produced on a data processing machine listing. This listing will display for each deleted sale an appropriate parcel identification, the sales price, the assessed value, and a numerical code or narrative designation of the reason for deletion of the property from the study. The numerical code used shall coincide with the department of revenue published deletion list (WAC 458-53-080) unless an agreement has been made with the department to use another code. Any numerical code 27 (miscellaneous) shall be accompanied by a narrative reason for deletion.

(c) Sales remaining in the sales analysis study will be stratified and printed by assessed value strata. Necessary data for each sale property remaining in the study will be:

(i) Excise tax sales affidavit number, parcel number, or other file identification number.

(ii) The sales price of the transaction, lowered ~~((five))~~ one percent to ninety-five percent of its original value. Further adjustment of any individual sale may be made only if personal property is identified and its value is in excess of five percent of the sale price.

(iii) The current assessed value on the assessors' rolls for the property described on the sales affidavit.

(iv) A computed ratio based on the percent that the assessed valuation is to the adjusted sales price figure.

(3) As soon as practicable following the close of the assessors' rolls on May 31st, and prior to July 1st, the county sales-assessment ratio study shall be submitted to the department of revenue. Adjustments for new construction will be made following the August 31st deadline for adding new construction values to the assessment rolls. This will allow time for departmental analysis, field review, and insertion of appraisal data, where appropriate, for preliminary ratio determination by the first Monday in August.

(4) Individual valid sales having a resultant assessment sales ratio under twenty-five percent or over one hundred seventy-five percent shall be excluded from consideration in the study: PROVIDED, That this subsection shall not apply if the number of sales meeting this criteria exceeds ten percent of the total number of sales that would be used in the study subject to the provisions of this subsection: PROVIDED FURTHER, That this subsection shall not apply to any type of property not properly valued and subject to the provisions of WAC 458-53-165.

**AMENDATORY SECTION** (Amending Order PT 87-5, filed 5/29/87)

WAC 458-53-110 PROPERTY VALUES USED IN THE RATIO STUDY. The following property values will be included in the ratio study as provided in these rules:

(1) Values established by law or required to be determined by the department by law, but excluding property valued under chapters 84-.08, 84.12, and 84.16 RCW.

(2) Values determined by county assessors according to the provisions of chapter 84.41 RCW.

(3) Values of land classified under chapter 84.33 RCW.

(4) Values of land and improvements classified under chapter 84.34 RCW will be included in determination of the indicated real property ratios as a separate element for counties whose current use land values are fifteen percent or greater in proportion to the total county locally assessed real property value.

(5) Advisory values supplied to the assessor by the department shall not be included in the ratio study unless the property falls within the sales study provided for in WAC 458-53-070 or 458-53-100 or is selected in the appraisal or audit study in accordance with WAC 458-53-130 and 458-53-140.

(6) Values of individual real properties which equal or exceed twenty percent of the total of all locally assessed real property.

(7) Values of individual assessments of personal property which equal or exceed twenty percent of the total of all locally assessed personal property.

~~(8) ((Values of mobile homes which are identified in WAC 458-53-163(2))~~

~~(9))~~ Before values in subsections (6) and (7) of this section can be included, a request in writing identifying the properties, must be submitted to the department prior to October 1st of each ratio study period.

**AMENDATORY SECTION** (Amending Order PT 86-6, filed 10/2/86)

WAC 458-53-150 INDICATED REAL PROPERTY RATIO—COMPUTATION. (1) For each real property value or land use stratum within a county average sample assessed value and average sample true and fair value will be determined from the results of selected sales and appraisal studies. Average sample assessed value and average sample true and fair value for each stratum will be multiplied by the total number of real property parcels in each corresponding stratum to derive an estimated total assessed value and a total estimated true and fair value for each stratum. Stratum estimated totals will be added to derive county estimated total assessed value and county estimated total true and fair value. When the ratio relationship between these two estimated values is applied to the actual county assessed value, as provided by the assessor in his current assessors' certificate of assessment

rolls to the county board of equalization, and forest land and current use values in those counties where a separate study is conducted pursuant to WAC 458-53-110(4) are added to the actual assessed value and ratio-related market value, the totals will represent the county real property indicated ratio.

(2) Valid arms-length sales occurring in each county will be the basis for determining individual stratum ratios unless a representative number of samples for any one stratum requires the addition of department appraisals. In all strata where both sales and appraisal samples are present, assessment and market values for all valid appraisal samples will be combined with assessment and market values for all valid sales samples to derive a stratum ratio.

(3) Department current use appraisals will be the basis for the assessment-to-appraisal values from which current use ratios are determined. The current use ratio shall be the mean of the individual sample ratios.

(4) Values from each county's assessor's certificate of assessment rolls to county board of equalization will be used in the computation of each county's indicated real property ratio except as provided in subsection (6) of this section.

(a) The county preliminary real property ratio, calculated from estimated totals of county sales and appraisal study results, will be applied to each county's certificate listing of total real property assessed value (excluding those properties identified in WAC 458-53-110 (1), (3), (4), and (6)) and 458-53-165) to determine an estimated true and fair value which relates to the actual assessed real property value of a county.

(b) To the actual real property assessed value and ratio-related true and fair value totals for a county (a) of this subsection) are added certificate assessed values of those properties identified in WAC 458-53-110 (1), (3), (4), and (6) and 458-53-165, and related true and fair values calculated by the ratio relationships determined for those same properties.

(c) The sum of the total real property assessed and true and fair forest land assessed and true and fair values, as determined by (a) and (b) of this subsection shall be the basis for a county's indicated real property ratio. The sum total of assessed values will be divided by the sum total of true and fair values to derive the ratio.

(5) The following illustration, using simulated values and ratios, indicates simplified ratio study computation procedures for real property.

Step 1 - Determination of Average Sample Values

	(1)	(2)	(3)	(4)	(5)
Stratum	Number of Samples	Total Assessed Value of Samples	Average Assessed of Samples (Col. 2 ÷ Col. 1)	Total Market Value of Samples	Average Market Value of Samples (Col. 4 ÷ Col. 1)
\$ 0 - 19,999	10	\$120,000	\$12,000	\$160,000	\$ 16,000
20,000 - 39,999	20	520,000	26,000	600,000	30,000
Over 39,999	5	400,000	80,000	500,000	100,000

Average values for real property sales samples, average real property appraisal samples, and average personal property audit samples all are determined in the same manner.

Step 2 - Weighting of Average Sample Values

	(1)	(2)	(3)	(4)	(5)	(6)
Stratum	Total Property Listings	Average Sample Assessed Value	Total Estimated Assessed Value (Col. 2 × Col. 1)	Average Sample Market Value	Total Estimated Market Value (Col. 4 × Col. 1)	Ratio (Col. 3 ÷ Col. 5)
\$ 0 - 19,999	105	\$12,000	\$ 1,260,000	\$ 16,000	\$ 1,680,000	.7500
20,000 - 39,999	211	26,000	5,486,000	30,000	6,330,000	.8667
Over 39,999	51	80,000	4,080,000	100,000	5,100,000	.8000
Outriders	2		2,000,000		2,403,600	.8321
			12,826,000		15,765,800	.8267

Sample study weighted ratio

82.67%

Average values for real property sales samples, average real property appraisal samples, and average personal property audit samples all are weighted in the same manner.

Step 3  
Application of Sample Weighted Relationship to Actual Real Property Assessed Value and Additional Values as Indicated.

	(1)	(2)	(3)
	Actual County Real Property Assessed Value (From Assessor's Certificate)	Determined Assessment to Market Ratio	County Real Property Market Value Related to Actual Assessed Value (Col. 1 ÷ Col. 2)
	\$ 14,108,600	.8267 (from Step 2)	\$ 17,066,167
Add:			
Timber and Forest Land	1,520,000	1.0000	1,520,000
Open Space	400,000	.9000	444,444
Open Space Improvements	100,000	.9500	105,263
Mobile Homes	50,000	.9900	50,505
Other (WAC 458-53-110(6) or WAC 458-53-165 Properties)	100,000	1.0000	100,000
Totals	\$16,278,600	÷	\$19,286,379 = .844 84.4%

County Indicated Real Property Ratio

(6) If a copy of the certification of current values is not received from an assessor in a timely manner for inclusion in ratio computation, the assessors abstract of assessed values from the previous year will be used as the information source for ratio computation.

(7) A copy of each county's certification of values to the county board of equalization (FORM REV 64-0051) will be filed with the department on or before the second Monday in July. The certification form will be properly completed with all required information.

(8) Valid ratio study individual assessed or true and fair values which either exceed or fall below the mean assessed or true and fair value by more than three times the average deviation of other values in a stratum, will be classified as "outriders" and shall be considered separately in average sample computation. Outriders are so treated to prevent the application of excess weight by nontypical sample values in determining average sample values and resulting total estimated assessed and total estimated true and fair values.

(9) The department may consider the relationship between the market value trends of real property and the assessed value increases or decreases made by the assessor during the year in each county as validity checks of the result of the sales and appraisal studies. The director may authorize modification of the results of the sales and appraisal study in any county where there is a demonstrable showing to the director that the sales and appraisal study is inconclusive or does not result in a reasonable and factual determination of the relationship of assessed values to true and fair value such that a significant variation results from the rates of the previous year not deemed by the director comparable with general trends in property values. Such modification shall be made only after notice to all assessors that information other than the sales and appraisal studies are being considered, and opportunity for a meeting has been made available for the director (or the director of property tax) and a representative committee authorized and appointed by the assessors to review the results of the sales and appraisal study and the proposal to modify the study results.

AMENDATORY SECTION (Amending Order PT 87-5, filed 5/29/87)

WAC 458-53-163 MOBILE HOMES—USE IN STUDY. (1) Sales and appraisals of mobile homes, (~~properly stratified, shall be included in the ratio study in the following manner:~~

~~(1) Mobile homes which are assessed as other real property and are intermixed with other real property on the real property rolls shall be included with all other real property in the study;~~

~~(2) Mobile homes which meet the definition of real property contained in RCW 84.04.090 shall be included in the real property study as provided in WAC 458-53-150 (4)(b);~~

~~(3) meeting the definition of real property contained in RCW 84.04.090, shall be included in the real property ratio study in the same manner as other real property in WAC 458-53-070.~~

(2) Sales of mobile homes which meet the criteria of the sales exclusion list contained in WAC 458-53-080(2) shall be excluded from the mobile home study.

**WSR 89-05-054**  
**PROPOSED RULES**  
**CEMETERY BOARD**  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Cemetery Board intends to adopt, amend, or repeal rules concerning the repealing of WAC 98-12-010 and 98-20-010; new sections WAC 98-14-100 and 98-12-050; and the amending of WAC 98-08-150, 98-11-010, 98-14-090, 98-16-020, 98-20-020, 98-40-020, 98-40-030, 98-40-040, 98-40-050, 98-40-070 and 98-40-080;

that the agency will at 10:00 a.m., Tuesday, March 21, 1989, in the West Coast Sea-Tac Hotel, Olympic Room, 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 RCW 68.05.100 and 68.05.105.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

Dated: February 15, 1989  
By: Terry Noeth  
Assistant Attorney General

STATEMENT OF PURPOSE

Name of Agency: Washington State Cemetery Board.  
Purpose: To implement chapter 68.05 RCW regarding the functioning of a cemetery, accounting of endowment care funds, and to accurately reference the WACs to the current RCWs.

Statutory Authority: RCW 68.05.100 and 68.05.105.

Summary of the Rules: WAC 98-12-050 Endowment care trust funds; 98-14-100 Qualifications of applicant for prearrangement sales license; 98-14-090 Records of prearrangement trust funds; 98-08-150 Subpoenas—Where provided by law—Form; 98-11-010 Financial responsibility requirements for nonendowment care cemeteries; 98-16-020 Hybrid unit as funeral merchandise or services; 98-20-020 Definitions—Sale or transfer of ownership or control of any cemetery; 98-40-020 Terminology; 98-40-030 Removal and identification of human remains; 98-40-040 Holding human remains for cremation; 98-40-050 Cremation of human remains; 98-40-070 Packaging and storage of cremated remains; 98-40-080 Disposition of cremated remains; and repealing WAC 98-20-010 Removal of dedication; and 98-12-010 Endowment care trust funds—Alteration of identity of trustee—Notice required.

Reasons Proposed: The amendments and repeals to the WACs are for housekeeping reasons; new WAC 98-12-050 is to assure that cemetery owners understand that it is unprofessional conduct to misuse endowment care funds; and WAC 98-14-100 is to make explicit that an individual must be authorized to operate a cemetery in order to qualify for a prearrangement sales license.

Responsible Departmental Personnel: In addition to the members of the Washington State Cemetery Board the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Paul Elvig, Program Manager for Cemetery Board, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 586-4905; and Chris Rose, Administrator, Professional Programs Management, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-3234.

Proponents: The Washington State Cemetery Board.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

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

**AMENDATORY SECTION** (Amending Rule .08.150, effective 2/8/60)

WAC 98-08-150 SUBPOENAS—WHERE PROVIDED BY LAW—FORM. Every subpoena allowed by RCW ((68-05-150)) 68-05.105 shall state "cemetery board" and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

**AMENDATORY SECTION** (Amending Order 72-1, filed 9/8/72)

WAC 98-11-010 FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONENDOWMENT CARE CEMETERIES. Any cemetery authority (as defined in RCW 68.04.190) which desires to obtain a certificate of authority to operate a cemetery (as required by RCW ((68-05-200)) 68.05.115, 68.05.210, and 68.05.215), but which does not deposit in an endowment care fund the minimum sum required by RCW 68.40.010 of an endowment care cemetery shall be required by the cemetery board, in the exercise of the powers conferred upon it by RCW 68.05.210, as a condition precedent to the granting of such certificate of authority, to present to the cemetery board satisfactory proof that the cemetery authority has, at the time of its application for such certificate of authority or within a reasonable time prior

thereto, a corporate net worth, determined by commonly accepted accounting standards and criteria, in excess of one hundred thousand dollars: PROVIDED, That nothing herein shall apply to any corporation, association, society or municipal corporation referred to in RCW ((68-05-200)) 68.05.400: PROVIDED FURTHER, That any cemetery authority which is denied a certification of authority under the provisions hereof, shall have the right to appeal from such denial to the superior court of the county in which the cemetery authority is located or proposed to be located, such appeal to be taken within thirty days after the denial of the certificate of authority.

#### **NEW SECTION**

WAC 98-12-050 ENDOWMENT CARE TRUST FUNDS. No officer, director, stockholder, or employee of a cemetery authority shall use the endowment care fund principal and/or its earnings as a pledge in securing loans, for leveraging, or in any dealings for improper personal or corporate gain.

#### **REPEALER**

The following section of the Washington Administration Code is repealed:

WAC 98-12-010 ENDOWMENT CARE TRUST FUNDS—ALTERATION OF IDENTITY OF TRUSTEE—NOTICE REQUIRED.

#### **AMENDATORY SECTION** (Amending Order 106, filed 1/5/83)

WAC 98-14-090 RECORDS OF PREARRANGEMENT TRUST FUNDS. Any cemetery authority maintaining a prearrangement trust fund shall, at all times, maintain a current accounting system in accordance with generally accepted accounting standards and principles. The system shall include, but not be limited to, all of the following:

- (1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.
- (2) A sales register or journal showing the recording of all individual sales including date of sale, gross sales price, and detail of items sold.
- (3) An individual account record which records the amount of the prearrangement agreement, all payments received, the amount due the prearrangement trust fund and the distribution of payments received to the prearrangement trust fund or the cemetery authority in accordance with the method then allowed by the cemetery authority's prearrangement license.
- (4) A cash receipts journal which shall show each payment received from individual customers.
- (5) Schedules or documentation reconciling to and showing detail of each payment to and withdrawal from the prearrangement trust fund including date of payment, individual customer name, and amounts.

(6) Schedules and documentation showing detail of prearrangement trust fund asset management, renewal (rollover), and earnings. When assets are held in instruments that return a mix of principal and earnings throughout the period of holding, schedules shall be maintained reconciling principal to opening deposit.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall be retained and available for inspection for a period of seven years and shall be in such form as to be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

#### **NEW SECTION**

WAC 98-14-100 QUALIFICATIONS OF APPLICANT FOR PREARRANGEMENT SALES LICENSE. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid, subsisting, and unsuspended certificate of authority to operate a cemetery in this state issued by the Washington state cemetery board.

#### **AMENDATORY SECTION** (Amending Order 104, filed 3/9/81)

WAC 98-16-020 HYBRID UNIT AS FUNERAL MERCHANDISE OR SERVICES. A hybrid unit shall be considered funeral merchandise or services as defined in RCW ((48-40-002-(2)(b))) 18.39.010(8), unless specifically designated, detailed and represented to the contrary in cemetery prearrangement contracts: PROVIDED,

HOWEVER, That hybrid units not subject to regulation under chapter ~~((48.40))~~ 18.39 RCW shall, if applicable, be subject to chapter 68.46 RCW and considered cemetery merchandise or services. Such cemetery prearrangement contracts, advertising, and other representations shall clearly state which items of the hybrid unit are being sold as funeral merchandise or services and which are being sold as cemetery merchandise or services.

#### AMENDATORY SECTION (Amending Order 109, filed 8/19/86)

WAC 98-20-020 DEFINITIONS—SALE OR TRANSFER OF OWNERSHIP OR CONTROL OF ANY CEMETERY. For purposes of RCW ~~((68.05.255))~~ 68.05.115, sale or transfer of ownership or control of any cemetery authority, the following definitions shall apply:

(1) SALE: The purchase of a controlling interest (fifty percent or more) of assets or stock of an existing cemetery corporation.

(2) OWNERSHIP: The individual or individuals who own the stock of the cemetery corporation. Any one individual who owns fifty percent or more of the stock is considered an owner. When percentages of stock ownership change, anyone moving into a majority (fifty percent or more) position shall be considered the new owner, and thus subject to the provisions of RCW ~~((68.05.255))~~ 68.05.115.

(3) CONTROL: The person or entity who has fifty percent or more of the ownership, or has acquired the right to sell the corporation or its assets.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 98-20-010 REMOVAL OF DEDICATION.

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-020 TERMINOLOGY. The following definitions shall apply in this chapter:

(1) AUTHORIZING AGENT(S):

The person(s) legally entitled to order the cremation of the human remains. (See RCW ~~((68.08.160))~~ 68.50.160)

(2) CREMATED REMAINS:

The remaining bone fragments after cremation in a crematory. (See RCW 68.04.030)

(3) CREMATION:

"Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters; provided, that if a person entitled to possession of such remains under the provisions of RCW ~~((68.08.245))~~ 68.50.270 is going to place the cremated remains in a cemetery, mausoleum, columbarium or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply. (See RCW 68.04.110)

(4) CREMATION CHAMBER:

The enclosed space within which the cremation process takes place.

(5) CREMATION CONTAINER:

The case in which the human remains should be delivered to the crematory to be placed in the cremation chamber for cremation. The cremation container shall meet the following standards:

(a) It shall be composed of a suitable combustible material. If the remains are delivered to the crematory in a noncombustible container, the authorizing agent shall be, or have been, informed of the disposition of the container if it is not actually used in the cremation process. Any transfer of human remains to combustible containers at the crematory shall be in accordance with the provisions of chapter 18.39 RCW, applicable health laws and regulations adopted hereunder.

(b) It shall be rigid enough for handling with ease.

(c) It shall assure protection to the health and safety of the crematory operators and others.

(d) It shall provide proper covering for the human remains.

(e) It shall meet moral codes for respect and dignity.

(6) CREMATORY AUTHORITY:

The legal entity or the authorized representative of the legal entity, who conducts the cremation and who is properly licensed by the state of Washington to do so.

(7) CREMATORY OR CREMATORIUM:

The building or room(s) that house the cremation chamber. (See RCW 68.04.070, 68.04.080 and 68.04.090 and chapter 68.28 RCW and RCW ~~((68.48.050))~~ 68.05.185.)

(8) HOLDING FACILITY:

An area designated for the retention of human remains prior to cremation within the crematory facilities. The area shall:

(a) Comply with any applicable public health laws.

(b) Preserve the dignity of the human remains; and

(c) Recognize the personal integrity and health of the crematory authority personnel operating the crematory.

(9) HUMAN REMAINS:

The body of a deceased person. (See RCW 68.04.020)

(10) PROCESSED REMAINS:

The end result of pulverization, where the residue from the cremation process is cleaned leaving only bone fragments reduced to five millimeters or less. (See RCW 68.04.030)

(11) SEALABLE CONTAINER:

Any container in which processed remains can be placed and sealed so as to prevent leakage of processed remains or the entrance of foreign materials.

(12) RULES AND REGULATIONS:

The crematory authority may make, adopt, amend, add to, revise or modify, and enforce rules and regulations as necessary for proper operation of the crematory and to implement the provisions of the RCW and chapter 98-40 WAC in regard to cremations and the handling and custody of human remains. (See RCW 68.20.060)

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-030 REMOVAL AND IDENTIFICATION OF HUMAN REMAINS. (1) Immediately upon taking custody of human remains, a crematory Authority shall verify that the human remains bear a means of identification attached to the cremation container or to the remains. A crematory authority shall not accept unidentified human remains. (See RCW ~~((68.08.170))~~ 68.50.170 and ~~((68.08.180))~~ 68.50.180) Upon accepting human remains for cremation, the crematory shall make a permanent signed record of the color, shape and outside covering of any casket consumed with such human remains. (See RCW ~~((68.20.100))~~ 68.50.250)

(2) Materials identifying the human remains placed in the custody of a crematory authority should contain the following information: (See RCW ~~((68.08.240))~~ 68.50.240)

(a) Name of deceased;

(b) Date of death;

(c) Place of death;

(d) Name and relationship of authorizing agent;

(e) Name of firm engaging crematory services.

(3) If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall satisfy itself that identification has been made as described in WAC 98-40-030(2) and thereafter shall place or ensure that appropriate identification has been placed upon the exterior of the cremation container.

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-040 HOLDING HUMAN REMAINS FOR CREMATION. (1) When the crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall provide a holding facility as defined in WAC 98-40-020(8) and ~~((chapter [Title]))~~ Title 68 RCW and chapter 18.39 RCW.

(2) Human remains designated for cremation will be cremated within a reasonable time after death. (See RCW ~~((68.08.110))~~ 68.50.110)

(3) A crematory authority shall not hold the human remains for cremation unless it is contained within an individual, rigid and closed cremation container as defined in WAC 98-40-020(5).

(4) A crematory authority shall not accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

(5) Human remains that are not embalmed shall be held only within a refrigerated facility or in compliance with applicable public health regulations.

(6) Holding facilities shall be secure from access by unauthorized persons.

#### AMENDATORY SECTION (Amending Order PM 714, filed 3/9/88)

WAC 98-40-050 CREMATION OF HUMAN REMAINS. (1) Cremation will not take place until the necessary permits and consents

are issued by the health department and/or coroner or prosecuting attorney. (See RCW ((68-08-108)) 68.50.108 and 70.58.230)

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains shall be verified by the crematory authority and identification of the human remains being cremated shall be placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

(3) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050 (4) and (5).

(4) A crematory authority may simultaneously cremate more than one human remains within the same cremation chamber only upon having received written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for commingling of the products of the cremation process.

(5) Simultaneous cremation of more than one human remains within the same cremation chamber may be made without the authorizations required in WAC 98-40-050 (3) and (4) if equipment, techniques, or other devices are employed that keep the human remains separate and distinct before and during, and recoverable cremated remains separated and distinct after the cremation process.

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-070 PACKAGING AND STORAGE OF CREMATED REMAINS. (1) The entire cremated remains or processed remains shall be placed in a sealable container as defined in WAC 98-40-020(11) or in such container as may have been ordered by the authorizing agent, together with the identification of the cremated remains.

(2) Should the cremated remains or processed remains not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the cremated remains or processed remains and then securely closed.

(3) If the entire cremated remains or processed remains will not fit within the dimensions of the designated receptacle, the remainder shall be returned either in a separate container, or upon written permission of the authorizing agent, be disposed of according to the established procedures of the crematory authority.

(4) When a temporary container is used to return the cremated remains or processed remains, it is recommended that the container be placed within a sturdy box and all box seams taped closed to increase the security and integrity of that container. The outside of the container shall be clearly identified with the name of the deceased person whose cremated remains or processed remains are contained therein.

(5) Cremated remains or processed remains held by a crematory authority or cemetery pending final disposition shall be handled in accordance with RCW ((68-48-050)) 68.05.185.

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-080 DISPOSITION OF CREMATED REMAINS.

(1) A crematory authority shall keep an accurate record of all cremations performed, including disposition of the remains, as required by law. (See RCW ((68-08-240)) 68.50.240)

(2) Forms granting authority to cremate may contain notification of the disposition procedure in WAC 98-40-080(3).

(3) When cremated remains or processed remains of any dead human body have been in the possession of a crematory authority, funeral director or cemetery as originally authorized by the authorizing agent(s) without instructions or payment for final disposition for a period of two years or more (see RCW ((68-08-230)) 68.50.230) the crematory authority, funeral director, cemetery authority or other entity holding cremated remains or processed remains of persons other than their relatives may:

(a) Endeavor to contact the authorizing agent(s) by registered mail requesting disposition instructions and informing the authorizing agent(s) of the procedures that may be followed if disposition instructions are not received.

(b) If contact cannot be made or disposition instructions are not made within 60 days of the initiation of the contact process, the crematory authority, funeral director or cemetery authority, or other entity holding cremated remains or processed remains of persons other

than their relatives, may arrange for permanent disposition of the cremated remains or processed remains in a cemetery established in accordance with Title 68 RCW. Such disposition may be in an individual, common, or community grave, crypt or niche from which individual recovery of the cremated remains or processed remains may or may not be possible. No entity making disposition of remains under this procedure shall be liable for the nonrecoverability of any cremated remains or processed remains.

(c) A record of the name, place of death, crematory authority and location of the disposition shall be maintained as permanent records by both the cemetery and crematory authority, funeral director or other entity holding cremated remains or processed remains of persons other than their relatives.

(4) With written permission from the authorizing agent, a crematory may dispose of cremated remains or processed remains in any legal manner. (See RCW ((68-08-130)) 68.50.130 and ((68-08-245)) 68.50.270)

### WSR 89-05-055

#### PROPOSED RULES

#### COUNCIL ON HEARING AIDS

[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Council on Hearing Aids intends to adopt, amend, or repeal rules concerning examinations, amending WAC 308-50-010;

that the agency will at 10:15 a.m., Tuesday, March 21, 1989, in the West Coast Sea-Tac Hotel, Seattle Room, 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 RCW 18.35.161(4).

The specific statute these rules are intended to implement is RCW 18.35.161(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 17, 1989.

Dated: February 14, 1989

By: Amanda L. Tomlinson  
Assistant Attorney General

#### STATEMENT OF PURPOSE

Name of Agency: Washington State Council on Hearing Aids.

Title: WAC 308-50-010 Examinations.

Description of Purpose: To amend the rule relating to the number of parts in the examination for licensure.

Statutory Authority: RCW 18.35.161(4).

Summary of Rule: WAC 308-50-010 amended to change the number of parts in the examination from two to three.

Responsible Personnel: The Washington State Council on Hearing Aids and the executive secretary for the council have the responsibility for drafting, implementing and enforcing this rule. The executive secretary is Cynthia Jones, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-2494 comm, 234-2494 scan.

Proponents: The Washington State Council on Hearing Aids.

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

Small Business Economic Impact Statement: Not required and not provided in that these rules do not impact small businesses as that term is defined in RCW 19.85.020.

AMENDATORY SECTION (Amending Order PM 654, filed 6/26/87)

WAC 308-50-010 EXAMINATIONS. (1) The examination required of applicants shall be in ~~((two))~~ three parts: ~~((Written and practical, each consisting of several sections. PROVIDED, That effective with the July 1988 examination, the examination shall be in two parts:))~~ One written and two practical.

(2) ~~The ((minimum passing grade for each section shall be seventy percent with the minimum average grade of seventy-five percent for each part before an applicant shall be considered to have satisfactorily passed the required examination for licensure. PROVIDED, That effective with the July 1988 examination, the))~~ minimum passing grade shall be seventy percent for each part to pass the required examination for licensure.

(3) In addition to those subjects listed in RCW 18.35.070, the examination shall test the knowledge of the applicant in the basic act governing hearing aid fitter/dispensers and rules and regulations promulgated pursuant to this act.

(4) Applications for examination shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.

**WSR 89-05-056**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Medical Examiners)**  
 [Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Medical Examiners intends to adopt, amend, or repeal rules concerning physician assistant AIDS prevention and information education requirements, WAC 308-52-190;

that the agency will at 9:30 a.m., Friday, March 24, 1989, in the Airport Hilton Hotel, 17620 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 70.24.270 and 18.71A.040.

The specific statute these rules are intended to implement is RCW 70.24.270.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1989.

Dated: February 15, 1989  
 By: John H. Keith  
 Assistant Attorney General  
 Board Counsel

## STATEMENT OF PURPOSE

Title: Board of Medical Examiners, WAC 308-52-190 Physician assistant AIDS prevention and information education requirements.

Summary of Rule and Description of Purpose: This proposal would implement the new AIDS legislation (chapter 206, Laws of 1988) by requiring that physician assistants obtain at least four hours of continuing education about the prevention, transmission and treatment of AIDS.

Statutory Authority: RCW 70.24.270.

Specific Statute Rules are Intended to Implement: RCW 70.24.270.

Reasons for Supporting Proposed Action: To ensure the safety and welfare of the citizens of Washington state.

Responsible Agency Personnel for Implementation: Linda Crerar, Acting Executive Secretary, Washington State Board of Medical Examiners, 1300 South Quince, Olympia, WA 98504, 234-2205 scan, 753-2205 comm.

Organization Proposing Rule: Washington State Board of Medical Examiners.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court requirements.

Small Business Economic Impact Statement: None.

## NEW SECTION

WAC 308-52-190 PHYSICIAN ASSISTANT AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS.

(1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

(2) Application for registration. Effective July 1, 1989 persons who submit an application for physician assistant registration shall submit, prior to being granted a registration and in addition to the other requirements, evidence to show compliance with the educational requirements of subsection (4) or shall certify that such requirements will be satisfied by the date of the applicant's first renewal.

(3) 1989 renewal of registration. Effective with the renewal period beginning July 1, 1989, through June 30, 1990, all persons making application for physician assistant renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4). Renewal applicants who have documented hardship which prevents obtaining the required education on AIDS may petition the board for an extension.

(4) AIDS education and training.

(a) Acceptable education and training. The board will accept education and training that qualifies for continuing medical education credit. Such education and training shall be a minimum of four clock hours regarding the prevention, transmission and treatment of AIDS, and may include, but is not limited to, the following: etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective July 1, 1989, the requirement for registration, renewal, or reinstatement of any registration that is lapsed, inactive, or revoked or actually suspended for a term during which the physician assistant did not obtain the required AIDS education shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (a).

(c) Documentation. The physician assistant or applicant for registration shall:



- (i) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987;
- (ii) Keep records for two years documenting education and training and description of the learning;
- (iii) Be prepared to validate, through submission of these records, that education and training has taken place.

**WSR 89-05-057**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 15, 1989]

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

- Amd WAC 308-124A-025 Application process to take examination.
- Amd WAC 308-124A-460 Real estate brokers and salespersons and land development representative fees;

that the agency will at 9:00 a.m., Tuesday, March 21, 1989, in the First Floor Examination Room, 1300 Quince Street, 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 18.85.040.

The specific statute these rules are intended to implement is RCW 18.85.040.

Dated: February 15, 1989  
 By: Joyce A. Roper  
 Assistant Attorney General

**STATEMENT OF PURPOSE**

Title and Number of Rule Section and Chapter: WAC 308-124A-025 Application process to take examination; and 308-124A-460 Real estate brokers and salespersons and land development representative fees.

Statutory Authority and Specific Statute that the Rule is Intended to Implement: RCW 18.85.040.

Summary of Rule and Reasons Supporting the Rule: WAC 308-124A-025 modifies the application process to take the license examinations as a result of a change in contractors administering the examinations; and WAC 308-124A-460 changes the examination and reexamination fees and adds a fee for walk-in testing.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Mary G. Faulk, Director, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, WA 98504, 234-5029 scan, 753-5029 comm; John Swannack, Assistant Director, Business and Professions, First Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-2241 scan, 753-2241 comm; and Sydney Beckett, Program Manager, Professional Program Management Division, Fourth Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-0775 scan, 753-0775 comm.

Name of Person or Organization that is Proposing this Rule: Department of Licensing.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to this Rule: None.

This rule is not necessary to comply with a federal law or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

The department has reviewed the impact that the adoption of this rule would have on real estate brokers and salespersons and schools offering real estate courses. Real estate brokers and salespersons are not [most] appropriately classed in SIC Code 6531. They account for more than 10 percent of the firms and individuals in this area. They are less than 20 percent of all firms and individuals in all industries. Cost for small business is estimated to be zero. Any impact that this proposed rule may have is intended to fall equally on all real estate brokers and salespersons.

**AMENDATORY SECTION** (Amending Order PM 774, filed 9/30/88)

WAC 308-124A-025 APPLICATION PROCESS TO TAKE EXAMINATION. (1) Any person desiring to take an examination for a ~~((real estate broker or))~~ real estate salesperson license, except candidates who are actively licensed in another jurisdiction or were so licensed in the preceding six months(;) ~~or candidates who have received clockhours in another jurisdiction, ((or candidates applying for waiver under WAC 308-124A-420;))~~ must submit a completed examination application together with the examination fee and supporting documents, including evidence satisfactory to the department of having successfully completed an approved thirty clockhour fundamentals course, to the testing service approved by the department. Dishonored checks will be considered as an incomplete application.

(2) Any person desiring to take an examination for a real estate broker license or real estate salesperson license who is actively licensed in another jurisdiction or was so licensed in the preceding six months(;) ~~or who has received clockhours in another jurisdiction((; or candidates applying for waiver under WAC 308-124A-420;))~~ must submit a completed examination application with supporting documents, including evidence satisfactory to the department of having successfully completed any and all approved clockhour courses for licensure, to the licensing division of the department of licensing. After the qualifications for the examination have been verified by the department, the candidate shall submit the completed examination application and examination fee to the testing service approved by the department.

(3) The applicant will be assigned to the first available examination subsequent to determination of eligibility. The cutoff date for eligibility for any specific examination is available to the applicant upon request. ~~((Any application postmarked after the cutoff date will not be accepted for that examination, but will be assigned to the next available examination;))~~

(4) An examination candidate who has a completed examination application with the examination walk-in fee and supporting documents, including evidence satisfactory to the department of having successfully completed an approved thirty clockhour fundamentals course for candidates for a salesperson license, may walk-in to an examination if there are adequate space and test booklets after accommodating all candidates who have pre-applied under sections (1) and (2) of this rule. A candidate for a real estate broker license or real estate salesperson license who is actively licensed in another jurisdiction or was so licensed in the preceding six months or who has received clockhours in another jurisdiction must have his or her qualifications for the examination verified by the department as provided in section (2) prior to walking-in to an examination as permitted in this section. The examination walk-in fee shall be paid in the form of a personal check, a cashier's check or money order made payable to the testing service approved by the department. Cash will not be accepted from walk-in candidates.

(5) An applicant shall forfeit all examination fees for any examination or examinations for which the applicant has applied and does not

take for any reason, other than through the fault or mistake of the department of licensing.

**AMENDATORY SECTION** (Amending Order PM 673, filed 8/18/87, effective 10/1/87)

WAC 308-124A-460 REAL ESTATE BROKERS AND SALESPERSONS AND LAND DEVELOPMENT REPRESENTATIVE FEES. The following fees shall be charged by the professional licensing division of the department of licensing.

Title of Fee	Fee
Real Estate Broker:	
Application/examination	(( <del>\$50.00</del> ))
	<u>\$60.00</u>
Reexamination	(( <del>\$50.00</del> ))
	<u>60.00</u>
Walk-in for examination	<u>15.00</u>
Original license	50.00
License renewal	50.00
Late renewal penalty	25.00
Duplicate license	15.00
Certification	25.00
Name or address change	15.00
Real Estate Broker - Branch Office:	
Original license	\$40.00
License renewal	40.00
Late renewal penalty	20.00
Duplicate license	15.00
Name or address change	15.00
Real Estate Salesperson:	
Application/examination	(( <del>\$35.00</del> ))
	<u>\$60.00</u>
Reexamination	(( <del>\$35.00</del> ))
	<u>60.00</u>
Walk-in for examination	<u>15.00</u>
Original license	35.00
License renewal	35.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
Name or address change	15.00
Land Development Representative:	
Registration	\$20.00

**WSR 89-05-058**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 15, 1989]

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

- Amd WAC 308-195-030 State examination.
- New WAC 308-195-210 Temporary practice.
- New WAC 308-195-220 Definitions—Alternative training—Respiratory care practitioners.
- New WAC 308-195-230 Alternative training requirements;

that the agency will at 9:00 a.m., Tuesday, April 4, 1989, in the 2nd Floor Conference Room, 1300 Quince Street, 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 18.89.050.

The specific statute these rules are intended to implement is RCW 18.89.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: February 13, 1989

By: Terry Noeth

Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Department of Licensing.

Purpose: To implement chapter 18.89 RCW regarding the examination and training of respiratory care practitioners.

Statutory Authority: RCW 18.89.050.

Summary of Rules: WAC 308-195-030 State examination; 308-195-210 Temporary practice; 308-195-220 Definitions—Alternative training—Respiratory care practitioners; and 308-195-230 Alternative training requirements.

Reason Proposed: The training, temporary practice and alternative training rules are to provide a manner by which an individual awaiting certification may continue to work while waiting to receive examination results; training rules are to define and what alternative training is and what the requirements are in order to receive certification by such training. Amendment to state examination provision expands the certified exams an individual may take for certification.

Responsible Department Personnel: The following personnel have knowledge of and responsibility for drafting, implementing and enforcing [enforcing] the rules: Chris Rose, Administrator, Business, and Professions, 1300 Quince Street S.E., Olympia, WA 98504, phone 234-2241 scan, 753-2241 comm; and Arlene Robertson, Assistant Program Manager, Business and Professions, 1300 Quince Street S.E., Olympia, WA 98504, phone 234-3129 scan, 753-3129 comm.

Proponents: The director of the Department of Licensing.

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

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as the term was defined by RCW 43.31.920.

**AMENDATORY SECTION** (Amending Order 724, filed 4/27/88)

**WAC 308-195-030 STATE EXAMINATION—EXAMINATION WAIVER—EXAMINATION APPLICATION DEADLINE.**

(1) The entry level certification examination of the National Board of Respiratory Care, Inc. shall be the official examination for certification as a respiratory care practitioner.

(a) The examination for certification as a respiratory care practitioner shall be conducted three times a year in the state of Washington, in March, July, and November.

(b) The examination shall be conducted in accordance with the National Board of Respiratory Care, Inc.'s security measures and contract.

(c) Examination candidates shall be advised of the results of their examination in writing.

(2) Applicants taking the state examination must submit the application and supporting documents to the department of licensing no later than the first day of December, for the March examination; the

first day of April, for the July examination; and the first day of August for the November examination.

(3) An applicant who has passed the certification or registry examination given by the National Board of Respiratory Care, Inc., or an equivalent examination administered by a predecessor organization that is accepted and verified by the National Board of Respiratory Care, Inc. for certification, may be granted a certificate without further examination.

(4) A scaled score of 75 is required to pass the examination.

#### NEW SECTION

**WAC 308-195-210 TEMPORARY PRACTICE.** An applicant may practice under supervision of a certified respiratory care practitioner while waiting to complete the examination requirement. The applicant must take the first available examination administered following determination of their eligibility, except in the case of a bona fide emergency. An applicant may engage in temporary practice only prior to taking their first examination.

An individual shall cease practice immediately upon receipt of notice of failure to pass the examination. Resumption of practice may only occur after successfully passing the examination and issuance of a certificate.

#### NEW SECTION

**WAC 308-195-220 DEFINITIONS—ALTERNATIVE TRAINING RESPIRATORY CARE PRACTITIONERS.** (1) For the purposes of certifying respiratory care practitioners by alternative training methods the following definitions shall apply:

- (a) "One credit hour" equals "one contact hour";
- (b) "One semester hour" equals sixteen contact hours;
- (c) "One contact hour" is considered to be fifty minutes lecture time or one hundred minutes laboratory time;
- (d) "Direct supervision" shall mean the clinical evaluator is on the premises, quickly and easily available, and has provided sufficient supervision during the practical clinical experience to assure acceptable skills in the course content areas being verified;
- (e) "Formal education" shall be obtained in postsecondary vocational/technical schools and institutions, community or junior colleges, and senior colleges and universities accredited by regional accrediting associations or by other recognized accrediting agencies or programs approved by the Committee on Allied Health Education and Accreditation of the American Medical Association.

(2) Clinical practice experience shall be verified by a certified respiratory care practitioner certified in the state of Washington, or certified or registered by the National Board of Respiratory Care, Inc. who has provided "direct supervision."

#### NEW SECTION

**WAC 308-195-230 ALTERNATIVE TRAINING REQUIREMENTS.** An individual must possess the following alternative training qualifications to be certified as a respiratory care practitioner:

- (1) Completed a program recognized by the Canadian Society of Respiratory Therapists in their current list, or any previous lists and are eligible to sit for the Canadian Society of Respiratory Therapists registry examination; or
- (2) Been registered by the Canadian Society of Respiratory Therapists; or
- (3) Obtained a minimum of three thousand hours supervised practical clinical experience within the past five years and meet the following criteria:
  - (a) The following course content areas of training may be obtained directly by supervised clinical practical experience:
    - (i) Physical assessment;
    - (ii) Chest percussion/postural drainage;
    - (iii) Oxygen administration;
    - (iv) Incentive spirometry;
    - (v) Aerosol administration via:
      - (A) Pneumatic nebulization;
      - (B) Ultrasonic nebulization.
    - (vi) Clearance of secretions via oro- and nasopharyngeal suction devices;
    - (vii) Gas metering and analyzing devices;
    - (viii) Ventilator care including CMV, IMV, SIMV, and PEEP;

(ix) Artificial airways including oro- and nasopharyngeal airways, oral and nasal endotracheal tubes, tracheostomy tubes and buttons, esophageal obturator airways and intubation equipment;

- (x) IPPB;
- (xi) CPAP;
- (xii) Interpretation of blood gases;
- (xiii) Fundamentals of patient care.

(b) The following course content areas of training must be obtained through formal education:

- (i) Anatomy and physiology – Ten quarter or six semester credit hours;
- (ii) Microbiology – Five quarter or three semester credit hours;
- (iii) Math (college level algebra or higher) – Five quarter or three semester credit hours;
- (iv) Chemistry – Five quarter or three semester credit hours;
- (v) Biology – Five quarter or three semester credit hours;
- (vi) Physics – Five quarter or three semester credit hours;
- (vii) Medical terminology – Three quarter or two semester credit hours;
- (viii) CPR certification – Basic life support; and
- (4) Satisfactorily pass an examination approved or administered by the director.

#### **WSR 89-05-059**

#### **NOTICE OF PUBLIC MEETINGS DEPARTMENT OF AGRICULTURE (State Fairs Commission) [Memorandum—February 15, 1989]**

Special Dinner Meeting  
March 2, 1989  
Tumwater Room, Tyee Hotel  
Tumwater, Washington  
7:00 p.m.

We have planned a special dinner meeting of the State Fairs Commission at the time and place stated above for the purpose of reviewing an application for state aid from the King County/Seattle 4-H Fair and/or to sanction this fair as an urban satellite activity of the King County Fair. Also, we would like to set some criteria for scoring centennial exhibits in the evaluation process.

#### **WSR 89-05-060**

#### **PROPOSED RULES STATE BOARD OF EDUCATION [Filed February 15, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning local application of state requirements, WAC 180-51-025;

that the agency will at 9:00 a.m., Thursday, March 30, 1989, in the Library at Educational Service District No. 121, 12320 80th Avenue South, Seattle, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, March 31, 1989.

The authority under which these rules are proposed is RCW 28A.05.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 30, 1989.

Dated: February 14, 1989  
 By: Monica Schmidt  
 Secretary

**STATEMENT OF PURPOSE**

Rule: Chapter 180-51 WAC.  
 Rule Section(s): WAC 180-51-025.  
 Statutory Authority: RCW 28A.05.060(6).

Purpose of the Rule(s): To establish the required acceptance of sign language credit by any high school having a foreign language requirement for high school graduation.

Summary of the New Rule(s) and/or Amendments: Sets forth an amendment to WAC 180-51-025 establishing sign language in high school graduation requirements.

Reasons Which Support the Proposed Action(s): Amending Chapter 180-51 WAC.

Section Analysis: WAC 180-51-025 expands course offerings that fulfill foreign language graduation requirements.

Person or Organization Proposing the Rule(s): SBE.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 3-2298; Implementation and Enforcement: Doyle Winter, SPI, 6-6906.

The Rule(s) is (are) not 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.]

**AMENDATORY SECTION** (Amending Order 7-84, filed 5/17/84)

WAC 180-51-025 LOCAL APPLICATION OF STATE REQUIREMENTS. The content of courses and the determination of which courses satisfy particular subject area requirements and whether a particular course may satisfy more than one subject area requirement for different students shall be determined locally in accordance with rules adopted by boards of directors of districts: PROVIDED, That if a foreign language graduation requirement is established, credits earned in sign language shall count toward the completion of the requirement.

**WSR 89-05-061**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
 [Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning preschool accreditation, chapter 180-59 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, March 31, 1989.

The authority under which these rules are proposed is RCW 28A.34.120.

This notice is connected to and continues the matter in Notice No. WSR 89-01-088 filed with the code reviewer's office on December 21, 1988.

Dated: February 14, 1989  
 By: Monica Schmidt  
 Secretary

**WSR 89-05-062**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed February 15, 1989]

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 for child care providers, amending WAC 388-78-210;

that the agency will at 10:00 a.m., Tuesday, March 21, 1989, in the Auditorium, OB-2, 12th and Franklin, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 22, 1989.

The authority under which these rules are proposed is chapter 74.21 RCW.

The specific statute these rules are intended to implement is chapter 74.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1989.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 7, 1989. The meeting site is in a location which is barrier free.

Dated: February 15, 1989  
 By: Leslie F. James, Director  
 Administrative Services

**STATEMENT OF PURPOSE**

Re: WAC 388-78-210.

Purpose of the Rule Filing: To bring WAC in compliance with RCW. The Attorney General's Office has determined there is no statutory authority for requiring a criminal history check for FIP in-home child care providers.

Statutory Authority: Chapter 74.21 RCW.

WAC 388-78-210 is amended to delete the requirement to initiate a criminal history check for FIP in-home child care providers.

Person Responsible for Drafting, Implementation and Enforcement of this Rule Change: John Atherton, Family Independence Program, phone (206) 586-8672 or 321-8672 scan, mailstop HH-11.

These rules are not necessary as a result of a federal law.

AMENDATORY SECTION (Amending Order 2628, filed 6/1/88)

WAC 388-78-210 STANDARDS FOR CHILD CARE PROVIDERS. (1) The department shall pay only child care providers who are in compliance with statutory licensing requirements.

(2) The department shall pay a school-operated child care program that demonstrates compliance with state child day care minimum licensing standards.

(3) The department shall pay an in-home child care provider only after((:

(a)) the department has provided the enrollee with information about the criteria for selecting an in-home child care provider. The criteria are that the provider be:

((+)) (a) Eighteen years of age or older;

((+)) (b) Free of communicable disease;

((+)) (c) Of sufficient physical, emotional, and mental health to meet the needs of the children in care;

((+)) (d) Able to work with children without using physical punishment or psychological abuse; and

((+)) (e) Prompt and regular in-job attendance.

((b) A release is obtained for the department to initiate a criminal history/arrest record check.))

**WSR 89-05-063**

**ADOPTED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

**(Public Assistance)**

[Order 2743—Filed February 15, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-70-640 Local Indian child welfare advisory committee—Confidentiality.

Amd WAC 388-73-044 Special requirements regarding American Indians.

This action is taken pursuant to Notice No. WSR 89-01-090 filed with the code reviser on December 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 under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.15.030.

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 February 14, 1989.

By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 1167, filed 10/27/76)

WAC 388-70-640 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE—CONFIDENTIALITY. ((+)) Prior to review or participation in any specific case which will involve access to records protected by confidentiality statutes or rules, the necessary and appropriate consents shall be obtained. Each regional administrator and local Indian child welfare committee shall develop mutually agreeable procedures for describing to the Indian child, parent, guardian or court of jurisdiction the role of the Indian advisory committee in review of their individual situations and for receiving their approval of such review. The emphasis shall be on the development of communications procedures which are positive and relevant to the Indian people.

(2)) The members of the local child welfare advisory committee shall agree to abide by RCW 74.04.060 and the rules of confidentiality binding the DSHS staff.

AMENDATORY SECTION (Amending Order 1703, filed 9/25/81)

WAC 388-73-044 SPECIAL REQUIREMENTS REGARDING AMERICAN INDIANS. (1) Implementation of the licensing statute will recognize the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities. The licensing of a child care agency on sovereign Indian soil shall in no way abridge the sovereignty of an Indian nation nor shall compliance with these rules and regulations be deemed to be a relinquishment of sovereign authority.

(2) For the purposes of these rules, the term "Indian" includes the following groups:

(a) An enrolled Indian:

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

(3) Prior to planning, development, and delivery of social services to Indian children and families, agencies shall((:

(a)) obtain a written statement from the parent or Indian custodian regarding the preference of child placement((:

(b) Obtain a written statement from the parent or Indian custodian regarding the utilization of the DSHS HCWAE)).

(4) When an agency has an Indian child in its case-load, the agency shall develop social service resources and staff training programs designed to meet the special needs of such children through coordination with tribal,

Indian Health Service and Bureau of Indian Affairs social service staff and appropriate urban Indian and Alaskan native consultants.

(5) In addition to reports required by WAC 388-73-056, an agency shall report to a child's tribal council the serious injury or death or abandonment of an enrolled Indian child or an Indian child eligible for enrollment.

(6) In planning foster care and adoptive placements for Indian children, agencies shall give consideration (~~shall be given~~) in the following order:

- (a) Relatives;
- (b) An Indian family of the same tribe as the child;
- (c) An Indian family of a Washington Indian tribe of a similar culture to that tribe;
- (d) Any other family which can provide a suitable home for an Indian child, such suitability to be determined through consultation with a local Indian child welfare advisory committee.

(7) When foster care or adoptive placement of a non-enrolled Indian child is planned, agencies shall compile the Portland area office of the bureau of Indian affairs' form "family ancestry chart," or appropriate equivalent (~~shall be compiled~~). Agencies shall take appropriate steps (~~shall be taken~~) to enroll eligible children in their respective tribes.

(8) (~~Unless contrary to the wishes of a child and/or his parent(s);~~) Agencies serving Indian children shall make efforts to recruit facilities and/or homes particularly capable of meeting the special needs of such children. Indian children shall be placed (~~preferably~~) preferentially in Indian foster homes (~~or~~). Indian children can be placed in non-Indian foster homes specifically recruited and trained to meet the special needs of Indian foster children only with the consent of the LICWAC or the child's tribe for a four-month period in a particular non-Indian home. Each such placement shall only be extended by the consent of the LICWAC or the child's tribe on a month-by-month basis.

(9) When an agency has an Indian child in its caseload, the agency shall have a written policy and procedures statement on legal practices which shall reflect the rights of Indian children and families based upon their unique social-legal status guaranteed by treaty and federal law.

(10) If not contrary to the wishes of a child and/or his parent(s), in the adoptive placement of Indian children adoptive homes having the following characteristics agencies shall (~~be given~~) give preference in the following order:

- (a) An Indian family of the same tribe as the child within thirty days from the time the child is determined to be legally and otherwise ready for adoptive planning.
- (b) Within an additional thirty days, a Washington Indian family; considering first a family of similar cultural background, for example, eastern or western Washington.
- (c) Within an additional thirty days, an Indian family from elsewhere in the United States or Canada, through the Adoption Resource Exchange of North America, or other recognized adoption agency outside of Washington state. Attention shall be given to matching the child to an Indian family whose culture is similar to that of his

natural parents, such as, Coastal, Plateau, Plains, Southwest, Woodland.

(d) Any other family who can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage. (~~See also (c) of this subsection~~) Such placements shall only be made with the consent of the LICWAC or the child's tribe. Each such placement shall be reviewed by the LICWAC or the child's tribe at the end of one year to assess the suitability of the non-Indian home. No other reviews shall take place after this.

(11) All agencies shall:

(a) (~~Shall utilize the DSHS brochure, DSHS 22-195(X), as a manner of obtaining client consent for review by the DSHS local Indian child welfare advisory committee (LICWAC).~~

(~~b) Shall~~) Consult with the LICWAC (~~or regional Indian consultant~~) on case planning, development and service delivery(;-);

(~~(c)~~) (b) (~~Shall~~) Utilize the LICWAC (~~or regional Indian consultant~~) to assist in the recruitment of appropriate tribal and urban Indian foster care and adoptive homes for Indian children(;-);

(~~(d)~~) (c) (~~Shall~~) Utilize the LICWAC (~~or regional Indian consultant~~) in the development and provision of staff training(;-);

(~~(e)~~) (d) (~~Shall~~) Complete a "Verification of American Indian status" form for each family applying for foster care or adoptive care of Indian children. The verification form (~~must~~) shall be complete and on file, with review and approval by the LICWAC, prior to placement. When Indian homes are not available, agencies shall place Indian children (~~shall be placed, in cooperation~~) with the consent of LICWAC(;-) or the child's tribe and for a four-month period in a particular non-Indian home(s) specifically recruited and trained to meet the special needs of Indian children. Each such placement shall only be extended by the consent of LICWAC or the child's tribe on a month-by-month basis; and

(e) Comply with all requirements of the Federal Indian Child Welfare Act, 25USC1901, et. seq, and all requirements of state laws pertaining to foster care, guardianship, termination, or adoption proceedings involving Indian children.

#### WSR 89-05-064

#### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed February 15, 1989]

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 the amending of WAC 230-04-010, 230-04-020, 230-04-065, 230-04-190, 230-04-201, 230-08-095, 230-08-120, 230-08-125, 230-12-020 and 230-20-064; new sections WAC 230-02-155, 230-02-160, 230-02-161, 230-02-163, 230-02-166, 230-02-169, 230-02-173, 230-02-176, 230-02-179,

230-02-182, 230-02-185, 230-02-188, 230-02-191, 230-04-005, 230-04-022, 230-04-024, 230-04-035, 230-04-040, 230-04-064, 230-08-122 and 230-12-060; and repealing WAC 230-04-050, 230-04-060 and 230-04-061;

that the agency will at 10:00 a.m., Friday, April 14, 1989, in the Sea-Tac Red Lion Inn, 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 9.46.070 (7)(8)(9)(10)(14)(19)(20).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 14, 1989.

Dated: February 15, 1989

By: Frank L. Miller  
Deputy Director

### STATEMENT OF PURPOSE

Title: WAC 230-02-155 Bona fide charitable organization defined; 230-02-160 Charitable defined; 230-02-161 Bona fide nonprofit organization defined; 230-02-163 Educational defined; 230-02-166 Civic defined; 230-02-169 Patriotic defined; 230-02-173 Political defined; 230-02-176 Religious defined; 230-02-179 Social defined; 230-02-182 Fraternal defined; 230-02-185 Athletic defined; 230-02-188 Agricultural defined; 230-02-191 Agricultural fair defined; 230-04-005 Gambling license certification program; 230-04-010 Certification procedure—Application forms; 230-04-020 Certification procedure—General requirement—Mandatory training; 230-04-022 Certification procedure—Information required from all applicants; 230-04-024 Certification procedure—Charitable and nonprofit organizations—Qualifications; 230-04-035 Certification procedure—Charitable and nonprofit organizations—Classification of purpose; 230-04-040 Certification procedure—Charitable and nonprofit organization—Additional information required; 230-04-064 Certification procedure—All licenses—Formal commission approval; 230-04-065 Certification procedure—Bona fide charitable and nonprofit organizations—Lower volume—Simplified application; 230-04-190 Issuance of license; 230-04-201 Fees; 230-08-095 Minimum standards for Class D and larger bingo games—Monthly and annual accounting records; 230-08-120 Quarterly activity report by operators of bingo games (license Class D and above); 230-08-122 Annual certification and financial report—All nonprofit and charitable organizations; 230-08-125 Annual activity reports by operators of Class A, B, and C bingo, all classes of raffles, and bona fide charitable or nonprofit amusement games; 230-12-020 Gambling receipts deposit required by all bona fide charitable and nonprofit organizations; 230-12-060 Charitable or nonprofit—Bingo—Special review; 230-20-064 Maximum receipts, prizes, and expenses for bingo games—Net income required; 230-04-050 Qualified bona fide charitable and nonprofit organization qualification; 230-04-060 Required information; and 230-04-061 Required information, bona fide charitable and nonprofit organizations.

Description of Purpose: These rules implement the bingo monitoring and review program.

Statutory Authority: 230-02-155, 230-02-160, 230-02-161, 230-02-163, 230-02-166, 230-02-169, 230-02-173, 230-02-176, 230-02-179, 230-02-182, 230-02-185, 230-02-188 and 230-02-191 is RCW 9.46.070 (14)(19)(20); WAC 230-04-005, 230-04-010, 230-04-020, 230-04-022, 230-04-024, 230-04-035, 230-04-040, 230-04-064, 230-04-065, 230-04-190 and 230-04-201 is RCW 9.46.070 (7)(14)(20); and WAC 230-08-095, 230-08-120, 230-08-122, 230-08-125, 230-12-020, 230-12-060 and 230-20-064 is RCW 9.46.070 (8)(9)(10)(14).

Summary of Proposed Rules and Reasons Supporting Action: These rules implement the bingo monitoring and review program. See list of titles above.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director, 234-1075 scan, 753-1075 comm; and Frank L. Miller, Deputy Director, 234-1075 scan, 753-1075 comm; located at Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff propose these rule amendments and new rules.

Agency Comments: The agency believes the proposed amendments and new rules are self-explanatory and need no further comment.

These amendments and new rules 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 these amendments or new rules.

Reviser's note: The material contained in this filing will appear in the 89-06 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 89-05-065

#### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning preliminary funding status to certain projects, WAC 180-26-055;

that the agency will at 9:00 a.m., Thursday, March 30, 1989, in the Library at Educational Service District No. 121, 12320 80th Avenue South, Seattle, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, March 31, 1989.

The authority under which these rules are proposed is RCW 28A.47.060, 28A.47.802 and 28A.47.830.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 30, 1989.

Dated: February 15, 1989  
By: Monica Schmidt  
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-26 WAC.  
Rule Section(s): WAC 180-26-055.  
Statutory Authority: RCW 28A.47.060, [28A.47].802 and [28A.47].830.

Purpose of the Rule(s): To limit the granting of preliminary funding status to projects falling within available revenues.

Summary of the New Rule(s) and/or Amendments: The proposed amendment repeals that portion of WAC 180-26-055 which grants automatic preliminary funding status to school construction projects with a priority one or two status. As a consequence of the repeal, priority one and two projects may only be granted preliminary funding status in accordance with WAC 180-26-050 which in effect conditions such approval upon the availability of state assistance funding.

Reasons Which Support the Proposed Action(s): Amending chapter 180-26 WAC, foreseeable shortages in common school construction funding and changes in funding eligibility rules.

Person or Organization Proposing the Rule(s): SBE.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 3-2298; Implementation and Enforcement: Doyle Winter, SPI, 6-6906.

The rule(s) is (are) not Necessary as the Result of Federal Law, Federal Court Action or State Court Action: [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-26-055 PRELIMINARY FUNDING STATUS TO CERTAIN PROJECTS. Notwithstanding the provisions of WAC 180-26-050, ((the following)) all projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985, shall be granted preliminary funding status by the superintendent of public instruction ((thirty days after the effective date of this section:

- (1) All projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985;
- (2) All projects with a priority one or two status pursuant to WAC 180-27-058).

WSR 89-05-066  
PROPOSED RULES  
STATE BOARD OF EDUCATION  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning project approval moratorium, WAC 180-25-300; that the agency will at 9:00 a.m., Thursday, March 30, 1989, in the Library at Educational Service District No. 121, 12320 80th Avenue South, Seattle, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, March 31, 1989.

The authority under which these rules are proposed is RCW 28A.47.060, 28A.47.802 and 28A.47.830.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 30, 1989.

Dated: February 15, 1989  
By: Monica Schmidt  
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-25 WAC.  
Rule Section(s): WAC 180-25-300.  
Statutory Authority: RCW 47.060 [28A.47.060], [28A.47].802 and [28A.47].830.

Purpose of the Rule(s): Impose a moratorium upon the granting of project approvals for state school building construction assistance.

Summary of the New Rule(s) and/or Amendments: The new section imposes a moratorium notwithstanding existing rule provisions which would otherwise entitle school districts to an award of project approval.

Reasons Which Support the Proposed Action(s): Project approvals granted by the State Board of Education to date already represent the foreseeable total state common school construction revenues available during the 1989-91 biennium.

Person or Organization Proposing the Rule(s): SBE.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 3-2298; Implementation and Enforcement: Doyle Winter, SPI, 6-6906.

The Rule(s) is (are) not 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.]

NEW SECTION

WAC 180-25-300 PROJECT APPROVAL MORATORIUM. Notwithstanding any provision of this chapter to the contrary, the state board of education hereby imposes a moratorium upon granting any project approval pursuant to WAC 180-25-040, 180-25-045, 180-29-025, and 180-29-030.

WSR 89-05-067  
PROPOSED RULES  
STATE BOARD OF EDUCATION  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning project approval moratorium, WAC 180-29-300; that the agency will at 9:00 a.m., Thursday, March 30, 1989, in the Library at Educational Service District No. 121, 12320 80th Avenue South, Seattle, conduct a public hearing on the proposed rules.



The formal decision regarding adoption, amendment, or repeal of the rules will take place on Thursday, March 30, 1989.

The authority under which these rules are proposed is RCW 28A.47.060, 28A.47.802 and 28A.47.830.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 30, 1989.

Dated: February 15, 1989

By: Monica Schmidt  
Secretary

#### STATEMENT OF PURPOSE

Rule: Chapter 180-29 WAC.

Rule Section(s): WAC 180-29-300.

Statutory Authority: RCW 47.060 [28A.47.060], [28A.47].802, and [28A.47].830.

Purpose of the Rule(s): Impose a moratorium upon the granting of project approvals for state school building construction assistance.

Summary of the New Rule(s) and/or Amendments: Imposes a moratorium notwithstanding existing rule provisions which would otherwise entitle school districts to an award of project approval.

Reasons Which Support the Proposed Action(s): Project approvals granted by the State Board of Education to date already represent the foreseeable total state common school construction revenues available during the 1989-91 biennium.

Person or Organization Proposing the Rule(s): SBE.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 3-2298; Implementation and Enforcement: Doyle Winter, SPI, 6-6906.

The Rule(s) is (are) not 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.]

#### NEW SECTION

WAC 180-29-300 PROJECT APPROVAL MORATORIUM. Notwithstanding any provision of this chapter to the contrary, the state board of education hereby imposes a moratorium upon granting any project approval pursuant to WAC 180-25-040, 180-25-045, 180-29-025, and 180-29-030.

## Table of WAC Sections Affected

### KEY TO TABLE

**Symbols:**

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

**Suffixes:**

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**WAC #** shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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