

Washington State Register

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 28B.19 or 34.04 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to noon and from 1 p.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of April 1989 pursuant to RCW 19.52.020 is thirteen point one eight percent (13.18%).

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 fifteen and one-quarter percent (15.25%) for the second calendar quarter of 1989.

WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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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 ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
88-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
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
88-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1989
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89-01	Nov 23	Dec 7	Dec 21, 1988	Jan 4, 1989	Jan 24
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89-03	Dec 21, 1988	Jan 4, 1989	Jan 18	Feb 1	Feb 21
89-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 7
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89-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1990

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

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

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

WSR 89-06-011
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2765—Filed February 22, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcohol and drug treatment facilities, amending chapter 275-19 WAC.

This action is taken pursuant to Notice No. WSR 88-23-041 filed with the code reviser on November 9, 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 69.54.040 and 70.96A.090 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 21, 1989.

By Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-020 FACILITY SERVICES. (1) The department shall approve and accredit alcoholism, alcohol abuse, drug addiction, and drug abuse treatment facilities (~~(pursuant to)~~ under these rules and regulations to provide the following services:

(a) ~~((Alcoholism and alcohol abuse))~~ Detoxification: Provides care and treatment of persons intoxicated or incapacitated by alcohol and/or other drugs during the period in which the person recovers from the transitory effects of acute intoxication(:(

~~(b) Drug addiction and drug abuse detoxification: Provides care and treatment of persons intoxicated or incapacitated by drugs during the period in which the person recovers from the transitory effects of acute intoxication)) or withdrawal(:(-c) Alcoholism));~~

(b) Intensive inpatient treatment: Provides a concentrated residential program consisting of a combination of education, individual therapy, group therapy, and related activities to detoxified alcoholics(:(

~~(d) Drug addiction intensive inpatient treatment: Provides a concentrated residential program consisting of a combination of education, individual therapy, group therapy;) and ((related activities to)) detoxified addicts(:(-e));~~

(c) Alcoholism long-term treatment: Provides care and treatment on a long-term basis (ninety days or more) in a residential setting with personal care services for chronic alcoholics with impaired self-maintenance capabilities needing personal guidance and assistance to maintain abstinence and good health(:(-f)) under or in lieu of the involuntary commitment law, chapter 70.96A RCW;

(d) Drug addiction long-term treatment: Provides care and treatment on a long-term basis (ninety days or more) in a residential setting with personal care services for drug addicts with impaired self-maintenance capabilities needing personal guidance and assistance to maintain abstinence and good health(:(-g) Alcoholism));

(e) Recovery house: Provides care and treatment in a residential setting with social and recreational activities for detoxified alcoholics ~~((to aid their adjustment to abstinence and aid their engagement in occupational training, gainful employment, or other types of community service.~~

~~(h) Drug addiction recovery house: Provides care and treatment in a residential setting with social)) and ((recreational activities for)) detoxified addicts to aid their adjustment to abstinence and aid their engagement in occupational training, gainful employment, or other types of community activities(:(-i) Alcoholism));~~

(f) Extended care recovery house: Provides care and treatment for detoxified alcoholics and detoxified addicts in a residential setting in excess of sixty days for clients needing prolonged treatment services(:(

~~(j) Drug addiction extended care recovery house: Provides care and treatment in a residential setting in excess of sixty days for clients needing prolonged treatment services. (k));~~

(g) Alcoholism and alcohol abuse outpatient treatment: Provides alcoholism and alcohol abuse treatment services according to a prescribed plan in a nonresidential setting(:(-f));

(h) Drug addiction and drug abuse outpatient treatment: Provides drug addiction and drug abuse treatment services according to a prescribed plan in a nonresidential setting(:(-m));

(i) Alcoholism intensive outpatient treatment: Provides a concentrated, nonresidential program consisting of a combination of educational sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and ~~((their families.~~

~~(n) Drug addiction intensive outpatient treatment: Provides a concentrated, nonresidential program consisting of a combination of educational sessions, individual therapy, group therapy, and related activities to)) detoxified addicts and their families(:(-o));~~

(j) Crisis intervention facilities services: Provides services aimed at alleviating acute emotional, behavioral, and/or physical distress resulting from the individual's use of alcohol ~~(/or)~~ other drugs(:(-p));

(k) DWI client assessment: A diagnostic service designed to evaluate and assess clients' involvement with alcohol and other drugs, and recommend an appropriate course of action(:(-q) Alcohol));

(l) Information school: An educational program providing students with information regarding the use and abuse of alcohol and other drugs. The goal of the school is to help students not currently presenting a significant ~~((alcohol))~~ chemical dependency problem to make informed decisions about the use of alcohol(:(

~~(r) Drug information school: An educational program providing students with information regarding the use and abuse of drugs. The goal of the school is to help~~

~~students not currently presenting a significant drug problem to make informed decisions about the use of) and other drugs((-(s)));~~

(m) Emergency service patrol: Provides assistance in the streets and in other public places to persons who are intoxicated((-(t)));

(n) Methadone treatment: Provides methadone (or other drugs approved by the department) as a substitute for opiates, in addition to counseling and other types of psychological or social therapy((-(u))); and

(o) Chemical dependency assessment centers: Contract agencies of the department of social and health services, bureau of alcohol and substance abuse, performing the following:

(i) Alcoholism and drug addiction assessments of a client seeking assistance from the department as a result of incapacity due to alcoholism and/or drug addiction((;-));

(ii) Screening of an indigent client and referral of a client qualifying for supplemental social security income or general assistance-unemployable based on mental illness or physical disability to one of the department's community service offices((;-and));

(iii) Case supervision of treatment and shelter services provided to indigent clients admitted to the ADATSA program; and

(iv) HIV/AIDS brief risk intervention with all clients and information about referral for HIV infection risk-reduction counseling and HIV antibody testing and other HIV/AIDS-related services.

(2) A facility may be approved for more than one service if the facility complies with the specific requirements for approval of each service provided.

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 2537, filed 9/16/87)

WAC 275-19-030 DEFINITIONS. For the purpose of these rules and regulations, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

(1) "Acute detoxification" means detoxification service provided to individuals for whom the consequences of withdrawal from alcohol or other drugs are so severe as to merit assistance from medical and/or nursing personnel.

(2) "ADATSA" means the Alcohol and Drug Addiction Treatment and Support Act.

(3) "ADATSA client" means an indigent client receiving services authorized under ADATSA.

(4) "Administrator" means the individual appointed as the chief executive officer by the operators of a facility to act in the facility's behalf in the overall management of the treatment facility.

(5) "AIDS" means acquired immunodeficiency syndrome, the clinical syndrome of HIV-related illness, as defined by the board of health under WAC 248-100-011.

(6) "Alcohol abuse" means use of alcohol in amounts ((hazardous)) harmful to individual health or safety.

~~((6))~~ (7) "Alcoholic" means a person with alcoholism.

~~((7))~~ (8) "Alcoholism" means an illness characterized by lack of control as to the consumption of alcoholic beverages or the consumption of alcoholic beverages to the extent a person's health is substantially impaired or endangered or his or her social and economic function is substantially disrupted.

~~((8))~~ (9) "Approved" means having met the standards of the department contained in these rules and regulations and having been approved ((pursuant to)) under chapters 69.54 and/or 70.96A RCW.

~~((9))~~ (10) "Approved treatment facility" means a treatment facility, either public or private, profit or non-profit, approved by the department ((pursuant to)) under these rules and regulations and chapters 69.54 and/or 70.96A RCW.

~~((10))~~ (11) "Authenticated" means written verification of any entry in a patient treatment record by means of a signature including minimally first initial and last name, or initials if the file includes an authentication record and the date of the entry.

~~((11))~~ (12) "Authentication record" means a document which is part of each patient treatment record and includes identification of all individuals initialing entries in the treatment record: Full printed name, signature including minimally first initial and last name, and initials that may appear after entries in the treatment record.

~~((12))~~ (13) "Bureau" means the Washington state department of social and health services bureau of alcohol and substance abuse.

~~((13))~~ (14) "Bureau of alcohol and substance abuse" means the Washington state department of social and health services bureau of alcohol and substance abuse.

~~((14))~~ (15) "Cancel" means a termination of the department's approval of a treatment service or facility.

~~((15))~~ (16) "Certified" means the approval of a treatment facility ((pursuant to)) under chapters 69.54 and/or 70.96A RCW and these rules and regulations to provide one or more of the treatment services listed in WAC 275-19-020 and the issuing of a certificate of approval for those services by the bureau.

~~((16))~~ (17) "Chemical dependency" means having an alcohol and/or drug abuse or addiction problem.

~~((17))~~ (18) "Chemotherapy" means the use of prescribed medication to assist in client treatment for drug or alcohol dependency.

~~((18))~~ (19) "Chronic" means an alcoholic or drug addict who remains incapacitated by alcoholism or drug addiction despite multiple treatment experiences. Chronicity is characterized by progressive physical deterioration, inability to care for self, and/or cognitive impairment which interferes with the ability to favorably respond to treatment.

(20) "Compliance" means being in conformity with the requirements in chapters 69.54 and/or 70.96A RCW and chapter 275-19 WAC applying to the class or classes of treatment services for which a treatment facility is approved and/or has applied for approval.

~~((19))~~ (21) "Department" means the Washington state department of social and health services.

~~((20))~~ (22) "Department of licensing" means the Washington state department of licensing.

~~((21))~~ (23) "Detoxification" means care and treatment of a person during the period in which the person recovers from the transitory effects of acute intoxication or withdrawal.

~~((22))~~ (24) "Detoxified" means withdrawn from the consumption of alcohol, or other drugs, and recovered from the transitory effects of intoxication, or any associated acute physiological withdrawal reactions.

~~((23))~~ (25) "Discrete chemical dependency assessment center" means a center conducting assessments of ADATSA clients following the requirements in WAC 275-19-590.

~~((24))~~ (26) "Discrete treatment facility" means an alcoholism and/or drug treatment facility run by operators who:

(a) Receive their revenue from one or more of the following:

(i) Client fees or third-party payments on behalf of clients;

(ii) Federal, state, and county contracts for alcoholism and/or drug treatment services.

(b) Have provided separate supervisory staff and treatment personnel for the alcoholism and/or drug addiction treatment services separate from other services provided by the facility,

(c) Have provided a separate building or a separate area within a building for the approved alcoholism and/or drug addiction treatment services,

(d) Have separate accounting records and documents which identify the source and applications of all funds received in payment for alcoholism and/or drug addiction treatment services.

~~((25))~~ (27) "Drug abuse" means use of a drug in amounts hazardous to individual health or safety.

~~((26))~~ (28) "Drug addiction" means chronic, compulsive, or uncontrollable drug use to the extent a person cannot stop use of the drug. Drug addiction is usually characterized by a process including progressive use, development of tolerance, and a withdrawal syndrome if use of the drug is discontinued.

~~((27))~~ (29) "Face to face" means an individual or group therapeutic contact with a client not including educational sessions.

~~((28))~~ (30) "Facilities" means rooms, areas, and equipment.

~~((29))~~ (31) "HIV/AIDS brief risk intervention" means a face-to-face interview with a client with the goal of assessing that individual's risk for HIV/AIDS infection and reducing the individual's risk of infection transmission.

(32) "HIV/AIDS counseling" means counseling directed toward:

(a) Increasing the individual's understanding of HIV/AIDS;

(b) Assessing the individual's risk of HIV acquisition and transmission; and

(c) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.

(33) "HIV education for client" means an education service designed to provide clients with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, and the impact of alcohol/drug use on risk and the disease process.

(34) "HIV antibody testing" means conducting a laboratory test or sequence of tests to detect the HIV or antibodies to HIV performed under WAC 248-100-207.

(35) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which:

(a) Damage the cellular branch of the human immune or neurological systems; and

(b) Result in infected immunodeficient or neurologically impaired persons.

(36) "Incapacitated by alcohol" means a person, as a result of the use of alcohol, has his or her judgment so impaired he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment and constitutes a danger to himself or herself, to any other person, or to property.

~~((30))~~ (37) "Intoxication" means acute alcohol and/or drug poisoning or temporary impairment of a person's mental or physical functioning caused by alcohol and/or other drugs.

~~((31))~~ (38) "Licensed nurse" means either a registered nurse ~~((per))~~ under chapter 18.88 RCW or a licensed practical nurse ~~((per))~~ under chapter 18.78 RCW.

~~((32))~~ (39) "Negative urine" means the results of a urinalysis which do not confirm the presence of any controlled substances, other than drugs medically prescribed for the patient submitting the urine sample.

~~((33))~~ (40) "Operators" means the individual or group legally responsible for the treatment facility.

~~((34))~~ (41) "Physician" means a person duly licensed to practice medicine or osteopathic medicine in the state of Washington per chapter 18.57 or 18.71 RCW.

~~((35))~~ (42) "Positive urine" means the results of a urinalysis confirming the presence of one or more controlled substances, other than drugs legitimately prescribed for the patient submitting the urine sample.

~~((36))~~ (43) "Probation alcohol assessment facility" means a qualified probation department for a district or municipal court within the state of Washington meeting the standards contained in these rules and regulations governing the operation of a DWI client assessment service as described ~~((in))~~ under WAC 275-19-020.

~~((37))~~ (44) "Residential facilities" means facilities providing board and room as part of the treatment program.

~~((38))~~ (45) "Revoke" means a termination of the department's approval of a treatment facility.

~~((39))~~ (46) "Secretary" means the secretary of the Washington state department of social and health services or his or her designee.

~~((40))~~ (47) "Shall" means compliance is mandatory.

~~((41))~~ (48) "Shelter" means sheltered living for qualified indigent alcoholics and/or drug addicts placed by chemical dependency assessment centers.

~~((42))~~ (49) "Sick physical" means an initial diagnostic examination of an applicant for admission to a

treatment facility, for the purpose of determining whether the individual is currently physiologically dependent on opiates.

~~((43))~~ (50) "Stabilization" means a patient's condition

~~((a))~~ where the program physician has determined that the currently prescribed dose of medication has suppressed physiological withdrawal signs, has not produced sedation, euphoria, or other signs of over-medication, and has provided reasonable comfort for the patient

~~((b) Where the program physician determines no future dose increases should be necessary. Stabilization is evidenced by constant dose levels for fourteen days or by a determination entered into the clinical record by the program physician).~~

~~((44))~~ (51) "Subacute detoxification" means detoxification service provided to individuals in a supportive, homelike environment where a person can recover from the effects of intoxication. Prescription medication is not provided for the management of withdrawal discomfort.

~~((45))~~ (52) "Suspend" means termination of the department's approval of a treatment facility for a specified period of less than one calendar year or until specific conditions have been met and the agency has been notified of reinstatement.

~~((46))~~ (53) "Take-home medication" means methadone dispensed for self-administration by the client off the premises of the treatment facility.

~~((47))~~ (54) "Transfer patient" means any patient transferring from one methadone program to another methadone program, with a maximum interruption in methadone medication of thirty days.

~~((48))~~ (55) "Urinalysis" means the qualitative analysis of a patient's urine sample for controlled substances.

AMENDATORY SECTION (Amending Order 2484, filed 4/13/87)

WAC 275-19-040 DEPARTMENT APPROVAL PROCEDURES. (1) Treatment facilities seeking department approval for one or more of the services listed in WAC 275-19-020 shall submit a written application to the bureau of alcohol and substance abuse on a form provided by the bureau.

(a) Such application shall provide evidence that the agency meets the requirements of these rules and regulations, chapters 69.54 and/or 70.96A RCW.

(b) The applicant shall send a copy of the application form to the county coordinator in each county where services are to be provided.

(c) After processing the application, the bureau shall send written notification of approval or denial of approval to the applicant and ~~((if approved))~~ to the appropriate county coordinator.

(2) The department shall not grant approval to any treatment facility unless the operators meet the requirements of WAC 275-19-110.

(3) The department shall only approve alcoholism and/or drug addiction treatment facilities which are separate and discrete from mental health facilities as

defined in chapter 71.24 RCW; PROVIDED, That approval shall continue to be granted to mental health facilities which were approved prior to January 1, 1987, to provide one or more of the treatment services defined in WAC 275-19-020. Approval shall continue to be granted for such treatment services operated by mental health facilities as long as they remain in compliance with the requirements of chapter 275-19 WAC.

(4) The department may grant provisional approval to treatment facilities when the bureau staff are unable to determine whether the facility, without a period of operation, will comply with chapters 69.54 and/or 70.96A RCW, and these rules and regulations. Provisional approval shall be granted for a maximum period of six months and may not be renewed more than once.

(5) If an approved treatment facility plans to move to a different location, open a branch office, or change ownership, the facility shall submit a written application to the bureau. Such application shall be submitted in accordance with WAC 275-19-040(1).

~~((a))~~ The bureau director or ~~((his or her))~~ the bureau director's designees may exempt a treatment facility from compliance with parts of these regulations when ~~((it has been found))~~:

(a) After thorough investigation and consideration, ~~((that))~~ such exemption may be made in an individual case without jeopardizing the:

(i) Safety, health, or treatment of the clients in the particular treatment facility; or ~~((jeopardize the functioning))~~

(ii) Function of other service providers; and

(b) All exemptions granted shall be in writing and filed with the department and the treatment facility.

(7) The bureau shall issue a certificate of approval, valid for not more than one year, to approved treatment facilities in compliance with these rules and regulations and chapters 69.54 and/or 70.96A RCW. The facility shall display this certificate ~~((shall be displayed))~~ in a conspicuous place ~~((in the facility))~~.

~~((Fees shall be set and charged by))~~ The bureau of alcohol and substance abuse shall set fees for inspections and certification of approved treatment facilities. The bureau shall base such fees ~~((shall be reasonably based))~~ upon the cost to the bureau of the inspections and maintenance of certification and fees shall not exceed the actual costs. The bureau may charge only one such fee ~~((shall be charged))~~ to a treatment facility during any twelve-month period, regardless of the number of inspections made.

(9) Additional methadone facility application materials. In addition to the material submitted in a regular application for approval of a treatment facility, methadone treatment facilities shall submit to the department the following:

(a) A completed copy of the federal food and drug administration application for approval as a methadone program.

(b) A completed copy of the federal drug enforcement agency application for an approval to provide methadone.

(c) A copy of the facility's urinalysis procedures and policies.

(d) A copy of the facility's criteria for establishing and revising planned detoxification dates for patients.

(e) A copy of the facility's dispensary procedures and policies.

(10) Other required permits, licenses, and approvals for methadone treatment facilities. Prior to being certified by the department, methadone treatment facilities ~~((must))~~ shall possess the following:

(a) Approval from the federal drug enforcement administration;

(b) A license to operate a methadone treatment facility from the county in which the facility is (to be) located, unless the county has no such licensure requirement; and

(c) Registration with the Washington state board of pharmacy.

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

AMENDATORY SECTION (Amending Order 2484, filed 4/13/87)

WAC 275-19-050 SUSPENSION, CANCELLATION, OR REVOCATION OF APPROVAL. (1) Failure to be in compliance with the requirements of chapters 69.54 and/or 70.96A RCW or these rules and regulations shall constitute grounds for the suspension or revocation of the department's approval in accordance with chapter 34.04 RCW.

(2) The department may cancel approval if a facility ceases to provide the services for which the facility has been approved.

(3) The department may cancel approval if a facility fails to pay the required certification fee.

(4) The department may suspend or revoke the approval of a facility if the facility hires a person or persons into counselor or assessment officer job positions not meeting the qualifications in WAC 275-19-145 for qualified counselors and/or assessment officers.

(5) Disqualified applicants.

(a) The department shall consider each and every individual named in an application for treatment facility approval ~~((shall be considered))~~ separately and jointly as applicants and, if anyone be deemed unqualified by the department in accordance with the law or these rules and regulations, the department may deny, suspend, or revoke approval ~~((may be denied, suspended, or revoked))~~.

(b) ~~((Approvat))~~ The department may ~~((be denied))~~ deny, ~~((suspended))~~ suspend, or ~~((revoked))~~ revoke approval for any of the following:

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

(ii) Knowingly permitting, aiding, or abetting the commission of any illegal act on the premises of the treatment facility;

(iii) Misappropriation of the property of the patients.

(6) When the department intends to suspend, revoke, or cancel approval, the director of the bureau of alcohol and substance abuse or the bureau director's designees shall ~~((have served))~~ serve upon the approved treatment

facility a notice of intent to suspend, revoke, or cancel the department's approval. Such notice shall provide for an administrative hearing and meet the requirements of chapter 34.04 RCW. The subsequent hearing and judicial review shall follow administrative procedures as specified in the Administrative Procedure Act, chapter 34.04 RCW and the rules and regulations promulgated thereunder.

(7) If the treatment facility requests a hearing ~~((is requested))~~, ~~((it))~~ the department shall ~~((be limited))~~ limit the hearing in scope to a review of the cause for the department's action. If the cause is a result of an inspection of the facility, the department shall limit the hearing ~~((shall be limited))~~ to a review of the findings in the inspection report issued by the department and the facility's compliance with the requirements of chapters 69.54 and 70.96A RCW, and chapter 275-19 WAC at the time of the inspection. If the cause is not the result of an inspection, the department shall limit the hearing ~~((shall be limited))~~ in scope to a review of:

(a) The department's written findings and stated cause for the action; and

(b) The facility's compliance with the requirements of chapters 69.54 and 70.96A RCW, and chapter 275-19 WAC on the date the findings were issued by the department.

(8) If the department finds ~~((that))~~ public health, safety, or welfare requires emergency action and incorporates a finding to that effect in the suspension or revocation order, summary suspension of the department's approval may be ordered pending proceedings for suspension, revocation, or other actions deemed necessary by the department.

(9) The department shall send written notice of any suspension, cancellation, or revocation of departmental approval to the county coordinator of each county in which the action is effective.

AMENDATORY SECTION (Amending Order 2459, filed 1/13/87)

WAC 275-19-075 ALL FACILITIES—CLIENTS' RIGHTS. (1) All approved treatment facilities shall take reasonable efforts to assure each client:

(a) Be treated in a manner promoting dignity and self-respect~~((:));~~

(b) Be treated without regard to race, color, creed, national origin, religion, sex, sexual preference, or age~~((:));~~

(c) Be treated without regard to disability~~((:));~~

(d) Be protected from invasion of privacy: PROVIDED, That reasonable searches may be conducted or other means used to detect and prevent contraband from being possessed or used on the premises~~((:));~~

(e) Have all clinical and personal information treated confidentially in communications with individuals not directly associated with the approved treatment facility~~((:));~~

(f) Have the opportunity to review his or her own treatment records in the presence of ~~((a staff person upon request:))~~ the administrator or his or her designee during such times a treatment session is not interrupted;

(g) Be fully informed regarding fees to be charged and methods of payment available((-););

(h) Be provided reasonable opportunity to practice the religion of his or her choice, alone and in private, insofar as such religious practice does not infringe on the rights and treatment of others, or the treatment program. The client has the right to refuse participation in any religious practice((-););

(i) Not be denied communication with significant others in emergency situations((-););

(j) Not be subjected by facility staff to physical abuse, corporal punishment, or other forms of abuse administered against their will including being denied food, clothing, or other basic necessities; and

(k) To receive a copy of the facility's client grievance procedures upon request.

(2) In addition to the rights set forth in subsection (1) of this section, all approved facilities providing services under departmental contract for ADATSA recipients shall notify ADATSA clients of their rights to:

(a) Report back to the community services office in case of disciplinary discharge from the program; and

(b) Request a fair hearing to challenge any departmental action which affects eligibility for ADATSA treatment or shelter assistance.

(3) A copy of these rights shall be given to each client receiving services both at admission and in case of disciplinary discharge.

(4) A copy of these rights shall be posted in a conspicuous place in the facility.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-135 ALL FACILITIES—PROGRAM MANUAL. All treatment facilities shall have and adhere to a written program manual containing at a minimum:

(1) A cover sheet ((noting the date of the last review and update)) which contains a log of all reviews and revisions of the manual((-signed by)). The person or persons making the review shall sign each entry and include a brief note stating the purpose of the review or revision.

(2) A copy of the organization's articles of incorporation showing the state seal if the operator is a corporation, or a copy of the partnership agreement if the operator is a partnership.

(3) A copy of the facility's bylaws, if the operator is a corporation.

(4) A current copy of all city and state business licenses required by WAC 275-19-040, 275-19-080, and 275-19-110.

(5) The facility's philosophy on alcoholism and/or drug addiction.

(6) A list of the overall objectives of the organization.

(7) An organizational chart ((including all positions and specifying the functions of all the)) which specifies each position((s)) by job title, including volunteers, within the facility.

(8) A delegation of authority policy meeting the requirements of WAC 275-19-130(3).

(9) Written personnel policies and procedures governing the qualifications of staff, job descriptions, hours of

work, personnel benefits, hiring practices, termination procedures, promotional requirements, leave days, employee evaluations, employee grievance procedures, ((and)) staff ethical standards, and implementing the personnel requirements of WAC 275-19-140.

(10) A written plan describing how volunteers will be utilized per WAC 275-19-160.

(11) A written description of each ((treatment and educational program)) approved service offered by the facility. There shall be a separate section in the program manual for the description of each approved service. The description((s)) of each ((program)) service shall include:

(a) Policies and procedures ((sufficient to describe)) describing how the ((service)) facility meets the ((applicable requirements of WAC 275-19-100 through 275-19-930)) following requirements:

(i) Acute detoxification under WAC 275-19-220 through 275-19-250;

(ii) Subacute detoxification under WAC 275-19-220 through 275-19-250 and WAC 275-19-280(5);

(iii) Intensive inpatient under WAC 275-19-320;

(iv) Long-term treatment under WAC 275-19-430;

(v) Recovery house under WAC 275-19-530;

(vi) Extended care recovery house under WAC 275-19-570;

(vii) Chemical dependency assessment centers under WAC 275-19-590;

(viii) Outpatient treatment under WAC 275-19-610;

(ix) ADATSA outpatient treatment under WAC 275-19-635;

(x) Intensive outpatient treatment under WAC 275-19-660;

(xi) Crisis intervention under WAC 275-19-710;

(xii) DWI client assessment under WAC 275-19-770;

(xiii) Information school under WAC 275-19-820;

(xiv) Emergency services patrol under WAC 275-19-920; and

(xv) Methadone treatment under WAC 275-19-940 through 275-19-990.

(b) Client admission criteria.

(c) The objectives of the program.

(d) The number of hours of service and length of treatment or educational program.

(e) The criteria for client transfer and discharge from the program.

(f) An outline of each lecture and educational session included in the program. The outline shall be sufficient in detail for another trained staff person to deliver the educational session or lecture in the absence of the regular instructor. The facility may keep these outlines ((may be kept)) separate from the program manual.

(12) ((Follow-up policies and procedures providing for contact to be attempted after discharge with each)) A copy of the client ((completing treatment)) fee schedule.

(13) ((A procedure for the continuing evaluation of the services provided by the facility.

((+4))) If an outpatient or residential facility, written policies and procedures governing implementation of the applicable intake and clinical requirements under WAC 275-19-165.

(14) If an outpatient or residential facility, written policies and procedures implementing the applicable case management ((and case)) requirements under WAC 275-19-180.

(15) Written policies and procedures implementing the applicable client file ((maintenance)) requirements of WAC 275-19-170 ((and 275-19-180)).

((15)) (16) Written policies and procedures governing the implementation of federal regulations on confidentiality of alcohol and drug abuse patient records (42 C.F.R., Part 2).

((16)) (17) Policies and procedures for reporting suspected child abuse per RCW 22.44 and 42 CFR, part 2.12 (c)(6).

(18) A copy of the facility's client rights required in WAC 275-19-075.

((17)) (19) A copy of the facility's client grievance procedures.

((18)) (20) Written policies and procedures governing implementation of the physical and laboratory examination requirements of WAC 275-19-165(2).

((19)) (21) A copy of the facility's policies regarding the use of self-help groups (i.e., AA, NA, Alanon, and Naranon).

((20)) (22) Copies of all other policies relating to client care.

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

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-140 ALL FACILITIES—PERSONNEL. (1) ((There)) The treatment facility shall ((be)) have sufficient qualified counselors, clerical, and other support staff not currently clients to ensure the attainment of program service objectives and to properly maintain the treatment facility.

(2) Qualified counselors carrying a caseload shall not exceed one hundred hours of face-to-face client contact per full-time equivalent counselor per month. The facility shall reduce the caseload of a qualified counselor by a minimum of twenty-five hours of face-to-face client contact hours per month for each counselor trainee assigned to the qualified counselor. Residential treatment, excluding detoxification, shall in addition maintain a client to staff ratio not to exceed fifteen clients for each counselor.

(3) Personnel employed as counselors shall ((be qualified)) qualify as counselors or counselor trainees as described in WAC 275-19-145.

(4) For each employee ((there)) the facility shall ((be)) have a current personnel file which includes the following:

(a) Verification (transcripts, certificates, licenses, resumes, etc.) of the employee's qualifications for the assigned position((-));

(b) A copy of the employee's current job description, signed and dated by the employee, which includes: The job title, a summary of the duties and responsibilities, the minimum qualifications, and the title of the immediate supervisor((-);

(c) A record of an orientation acquainting the person with the contents of the program manual, the disaster plan for the facility, and the confidentiality of client information((-);

(d) Written performance evaluations for each year of employment. The evaluator and employee shall sign and date the completed evaluation form ((shall be signed and dated by the evaluator and the employee.));

(e) ((Evidence)) A copy of the results of a tuberculin skin test or chest x-ray ((and a record of any accidents occurring on duty.)) within the first thirty days of employment and/or evidence the person has completed a recommended course of preventive or curative treatment as determined by the local health officer if the results are positive;

(f) ((There shall be sufficient evidence in the records of the qualified counselors, assessment officers, and information school instructors to determine whether they have received the training and education necessary to meet and maintain the qualified status. The record shall include the date the person became a qualified counselor, assessment officer, or information school instructor.

((g)) A signed and dated commitment to maintain confidentiality((-);

(g) A record of any accidents occurring on duty;

(h) Evidence all employees providing client care in ((a detoxification center in the absence of licensed physicians or nurses)) residential facilities have a valid and current red cross card or certificate for first-aid (or its equivalent) and annual training in cardiopulmonary resuscitation((-

(5) Employees with a communicable disease in an infectious stage shall not be on duty.

(6) All approved treatment facilities shall adhere to written personnel policies covering the qualifications of staff, job descriptions, hours of work, personnel benefits, hiring practices, termination procedures, promotional requirements, leave days, employee evaluations, grievance procedures, and staff ethical standards. (7));

(i) There shall be sufficient evidence in the personnel files of the qualified counselors, assessment officers, and information school instructors to determine whether they have received the training and education necessary to meet and maintain qualified status. The record shall include the date the person became a qualified counselor, assessment officer, or information school instructor;

(j) A copy of a current license, certificate, or registration as a counselor with the department of licensing for all counselors and counselor trainees per chapter 18.19 RCW; and

(k) If a counselor trainee or assessment officer trainee: (i) Their education and training plan required by 275-19-145(3);

(ii) A copy of the counselor trainee quarterly review form required by WAC 275-19-145(3); and

(iii) A copy of the documentation of four hours of tutoring per month on the requirements of WAC 275-19-145 (3)(iv)(A), (B), (C), (D), and (E).

(5) Approved treatment facilities shall comply with state statutory and regulatory provisions regarding non-discrimination and affirmative action in employment and client services.

~~((8))~~ (6) Employees who are or were clients of the approved treatment facility shall have personnel records separate from clinical records. The facility may enter no indication of current or previous client status or client activity, including urinalysis results, ((may be entered)) in the personnel record of such an employee.

~~((9))~~ (7) The facility may assign work ((may be assigned)) to the client when the assignment is part of the client's treatment program, the client's work assignment has therapeutic value, and the client works under the immediate supervision of a member of the staff.

~~((10))~~ (8) The facility shall not base exclusion from employment ((shall not be based)) on former alcohol or drug use, former mental dysfunction, or former criminal convictions except as provided in chapters 9.96A and 49.60 RCW.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-145 ALL FACILITIES—QUALIFIED COUNSELORS, INSTRUCTORS, AND ASSESSMENT OFFICERS. (1) A "qualified ((alcoholism)) chemical dependency counselor" ~~((is a person having adequate education, experience, and knowledge regarding the nature and treatment of alcoholism, is knowledgeable about community resources providing services alcoholics may need, knows and understands the principles and techniques of alcoholism counseling, and is skilled in the application of these principles and techniques. A qualified alcoholism counselor))~~ shall possess the following qualifications:

(a) Have no history of alcohol or other drug misuse for a period of two years immediately prior to the time of employment as ((an alcoholism)) a chemical dependency counselor and no misuse of alcohol or other drugs while employed as ((an alcoholism)) a chemical dependency counselor(;-);

(b) ~~((Possess these qualifications: (i) Satisfactory completion of))~~ Be licensed, certified, or registered as a counselor with the Washington state department of licensing under chapter 18.19 RCW or be in possession of a written statement of exemption from this requirement from the department of licensing;

(c) Have obtained a minimum of twenty-four quarter (sixteen semester) credits of course work in an accredited institution of higher learning (college or university)((- Twelve quarter (eight semester) credits must be in specialized alcoholism courses exclusive of field experience credits. These twelve credits)) which must include distinct courses in:

~~((A) Introduction to or))~~ (i) Survey of ((alcoholism)) chemical dependency,

~~((B))~~ (ii) Physiological actions of alcohol and other drugs,

~~((C) Alcoholism))~~ (iii) Chemical dependency counseling techniques,

(iv) Group process in chemical dependency treatment,

(v) Chemical dependency in the family, and

(vi) Case management of the chemically dependent client.

The remaining ~~((twelve quarter (eight semester)))~~ credits may be in other courses that will enhance competency in the application of chemical dependency counseling such as alcoholism, ((polydrug abuse)) and other drug problem course work, counseling, psychology, sociology, speech, and social work((- human service, or social services)).

~~((ii))~~ Persons qualified as alcoholism counselors prior to January 1, 1984, shall have satisfactorily completed a minimum of twelve quarter credits (eight semester credits) of course work in an accredited institution of higher learning (college or university). Six quarter (four semester) credits must be in specialized alcoholism courses. The remaining six quarter (four semester) credits may be in alcoholism, counseling, psychology, sociology, or social work.

~~((iii))~~ (d) Shall have completed an HIV/AIDS training approved by the department;

(e) Shall have completed and documented two thousand hours ((approximately)) equivalent to one year of full-time work experience ((supervised by a qualified alcoholism)) as a counselor trainee in a ((counseling capacity in an approved alcoholism agency or)) facility approved by the bureau of alcohol and substance abuse.

~~((Work))~~ This experience ((may include hours spent in supervised field experience under academic supervision. (c) Shall maintain the)) shall be supervised by a qualified chemical dependency counselor and verified by a letter signed by the agency director or supervising counselor at the agency where the experience was obtained. The letter shall specify the dates the counselor worked at the agency in a counseling capacity and the number of hours of work experience obtained under the supervision of the qualified counselor;

(f) Have maintained qualified counselor status by completing ((the following requirements within each two years of service:

~~((i))~~ sixty clock hours of continuing education((- including at least fifteen clock hours in which alcoholism or counseling alcoholic people or families is the primary part of the course content, as evidenced by the course description and/or syllabus. The remaining forty-five clock hours may be in such alcoholism specific subject areas,)) during each two-calendar-year period commencing the year following initial qualification in subject areas that will increase the counselor's knowledge and skills in counseling(;-) and aiding the ((alcoholic)) chemically dependent person ((or)) and their family ((to recover, or in the management of treatment services)) in recovery.

~~((ii))~~ (i) For any portion of these ((sixty clock)) hours of continuing education, each college quarter credit shall be equivalent to fifteen clock hours of continuing education, each college semester credit shall be equivalent to twenty-two and one-half hours of continuing education.

(ii) Each course or training event taken to meet these requirements shall be verified by a transcript or certificate of completion. In addition, a course/training description shall be attached which includes, at a minimum, the course title, course/training date or dates,

course/training site, the name of the instructor or instructors, the number of clock or credit hours, and a brief description of the course/training content if not specified on the certificate or transcript.

(iii) In-service training does not satisfy this requirement(, but short courses or workshops meeting the conditions in this section may be used.

(iv) Workshops and trainers must be approved by the bureau of alcohol and substance abuse)).

(2) ((A "qualified drug abuse counselor" is a person capable of assessing the emotional, social, and behavioral background and status of a client, determining an appropriate treatment plan, and providing and supervising the counseling services necessary to carry out the plan. Two years of full-time equivalent experience as a drug treatment staff person under the supervision of a qualified drug abuse counselor or a masters or doctoral degree in the behavioral sciences and one year of such experience shall be sufficient to establish a person to be a qualified drug abuse counselor. A qualified drug abuse counselor shall:

(a) Have no history of alcohol or other drug misuse for a period of two years immediately prior to the time of employment as a drug abuse counselor and no misuse of alcohol or other drugs while employed as a drug abuse counselor.

(b) Qualification may also be gained by demonstrating and documenting he or she:

(i) Has earned a high school diploma or has received the equivalent;

(ii) Has at least one year of full-time experience as a drug abuse treatment trainee in an approved drug abuse treatment center under the supervision of a qualified drug abuse counselor;

(iii) Has demonstrated competency as a substance abuse counselor as measured by a competency evaluation approved by the department. The competency evaluation shall consist of an assessment of his or her knowledge and skill in the areas of referral, crisis intervention, treatment planning, intake and evaluation, communications, treatment modalities and methods, confidentiality, professional integrity, and the nature of substance abuse.

(c) Qualifying experience for purposes of this subsection shall not include experience gained while a client in a drug abuse treatment facility. Part-time experience may be accumulated to meet the experience requirements:

(d) Subsequent to initial qualification, a person will remain qualified as a drug abuse counselor as long as he or she has taken at least fifty hours per year of continuing education and training in subject matter relevant to the duties and responsibilities of a qualified, drug abuse counselor exclusive of case staffing, case conferences, and supervisory meetings. A maximum of twenty-five hours of this requirement may be in training sponsored by his or her employer.

(e) The qualified drug abuse counselor shall attest to and document at least once every two years these conditions are met:

(f) A drug abuse counselor failing to remain qualified may requalify in the manner prescribed for initial qualification)) The department shall consider counselors

qualified as "alcoholism or drug abuse counselors" prior to January 1, 1990, under the requirements of WAC 275-19-145 (September 16, 1987), as having met the academic requirements of a qualified chemical dependency counselor.

(3) A chemical dependency counselor trainee((s may be employed by an approved treatment facility, provided the following conditions are met)) is a person that meets the following requirements. A chemical dependency counselor trainee shall:

(a) ((The trainee has)) Have no history of alcohol or other drug misuse for a period of one year immediately prior to the time of ((employment as)) becoming a ((counselor)) trainee and no misuse of alcohol or other drugs while employed as a ((counselor)) trainee((-);

(b) ((Each trainee must)) Be licensed, certified, or registered as a counselor with the department of licensing under chapter 18.19 RCW or be in possession of a written statement of exemption from this requirement from the department of licensing; and

(c) Be directly supervised and tutored by a qualified chemical dependency counselor who shall ((be responsible for the professional conduct of that trainee. The qualified counselor must)) provide and document the following activities for each trainee under his or her supervision:

(i) ((Observe the trainee in the various clinical activities.

(ii) Instruct the trainee in counseling techniques, attitudes, and theories.

(iii) Assign and review all intake histories, assessments, and treatment plans prepared by the trainee.

(iv) Review client files and)) Serve as case manager for all cases assigned to trainee. ((A note giving the results of the review must be placed)) This shall be evidenced in each client file((-;

(v) Instruct the trainee in the preparation and maintenance of case files and client confidentiality.

(vi) Instruct the trainee on the accepted standards of professional ethics for counselors. (c)) by the supervisor signing and dating all items required by WAC 275-19-180(4);

(ii) Assist the trainee in preparing and maintaining an individualized training and education plan ((shall be prepared by the treatment facility administrator for each person employed as a counselor trainee)). The facility shall design the training and education plan ((shall be designed)) to bring the trainee ((up)) to the qualified counselor status within two years of the date the person ((is employed)) begins working as a counselor trainee;

(iii) At least once each quarter, document and attest to the trainee's progress toward achieving the goals in the education and training plan making certain the items required in subsection (3)(c)(iv)(A), (B), (C), and (D) below have been met. This shall be documented on a counselor trainee quarterly review form;

(iv) The supervisor shall provide and document in the trainee's personnel file a minimum of four hours of tutoring per month to each trainee toward:

(A) Orienting the trainee to the various laws (RCWs), and regulations that apply to the delivery of alcohol and drug assessment and treatment services;

(B) Instructing the trainee in assessment and counseling theories and techniques;

(C) Instructing the trainee on the accepted standards of professional ethics and conduct for counselors; and

(D) Observing the trainee in the various clinical activities including client intakes, assessments, individual counseling, group counseling, family counseling, crisis intervention, referral, discharge, and aftercare planning and client file maintenance; and

(E) Case consultation.

(4) A "qualified assessment officer" ((is a person who)) shall possess the following qualifications:

(a) ((Is)) Be employed as a probation officer for a district or municipal court within the state of Washington; and

(b) Meets the requirements of a qualified ((alcoholism)) chemical dependency counselor as defined in WAC 275-19-145(1), except the two thousand hours of supervised work may be satisfied by completing an equivalent number of hours of ((supervised)) work doing assessments within a probation department supervised by a qualified assessment officer.

(5) Assessment officers qualifying as such prior to January 1, 1990, under the requirements of WAC 275-19-145 (September 16, 1987), the department shall consider as having met the academic requirements of qualified assessment officers.

(6) An assessment officer trainee((s may be employed by an approved probation assessment facility provided the following conditions are met)) shall be a person who meets the following requirements:

(a) ((The trainee)) Is employed as a probation officer for a district or municipal court within the state of Washington;

(b) Has no history of alcohol or other drug misuse for a period of one year immediately prior to the time of employment as an assessment officer trainee and no misuse of alcohol or other drugs while employed as ((an assessment officer)) a trainee((- (b) Each trainee must be));

(c) Is directly supervised and tutored by a qualified assessment officer((- The qualified assessment officer must)) who shall provide and document the following activities for each trainee under his or her supervision:

(i) ((Observe the trainee in conducting assessments.

(ii) Instruct the trainee in assessment techniques, attitudes, and theories.

(iii) Assign and review all assessments prepared by the trainee.

(iv) Review all client files prepared by the trainee. A note giving the results of the review must be placed in each client file.

(v) Assist the trainee in preparing and maintaining an individualized training and education plan ((shall be prepared by the probation assessment facility administrator for each person employed as an assessment officer trainee)). The training and education plan shall be designed to bring the trainee up to the qualified assessment officer status within two years of the date the person is employed as ((an assessment officer)) a trainee;

(ii) At least once each quarter, document and attest to the trainee's progress toward achieving the education

and training plan making certain the items required in subsection (6)(c)(iii)(A), (B), (C), and (D) below have been satisfactorily accomplished. This documentation shall be completed on an assessment officer quarterly review form;

(iii) The supervisor shall provide and document in the trainee's personnel file that the trainee has been tutored and supervised in the following areas:

(A) Orientation to the various laws (RCWs) and regulations (WACs) that apply to the delivery of alcohol and drug assessment and treatment services;

(B) Instruction in assessment methods;

(C) Instruction on the accepted standards of professional conduct and ethics for assessment officers; and

(D) Observing the trainee in doing assessments.

((6)) (7) A "qualified ((alcohol or drug)) information school instructor" is a person possessing a certificate of completion of the alcohol ((or)) and other drug information school instructor's training course offered or authorized by the bureau of alcohol and substance abuse.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-150 ALL FACILITIES—STUDENT PRACTICE. (1) If a treatment facility provides a setting for student practice in a formal educational or training program, there shall be a written agreement with the educational agency or institution concerned. The agreement shall define the nature and scope of student activities within the facility and ensure supervision of student activities in the interest of clients' welfare.

(2) Student interns may provide counseling services provided the requirements set forth in WAC 275-19-145 (3)(a) and ((b)) (c) are met.

(3) Each student shall sign a confidentiality statement which shall be kept on file at the treatment facility.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-165 ALL FACILITIES—OUTPATIENT AND RESIDENTIAL INTAKE AND CLINICAL REQUIREMENTS. (1) ((Approved)) Intensive inpatient, recovery house, long-term care, or extended care recovery house facilities shall not admit or retain persons needing detoxification or withdrawal. The facility shall refer or transfer the persons to a detoxification facility unless they manifest signs and symptoms of a condition warranting acute care in a hospital wherein the facility shall refer or transfer them to a hospital.

(2) Outpatient and residential treatment facilities shall conduct and document a face-to-face, diagnostic interview with each client to collect, review, and examine the following information:

(a) A history of the client's involvement with alcohol and other drugs, including the volume, frequency, type, and duration (date of first and last use) of each drug used;

(b) The client's history of alcohol and drug treatment;

(c) The client's medical history;

(d) Historical sociological data describing the client's most recent living situation, genetic predisposition to chemical dependency, employment history, educational history, significant life events (e.g., moves, losses, sexual or physical abuse, or neglect), environment, etc.; and

(e) A history of the client's legal involvement.

(3) Outpatient and residential facilities shall conduct and document an HIV/AIDS brief risk intervention with each client and, if indicated, refer the client to HIV/AIDS-related services.

(4) Outpatient and residential treatment facilities except detoxification facilities shall ~~((provide the following:~~

(a) An intake interview, conducted by a qualified counselor or other qualified staff working under the direct supervision of a qualified counselor. The interview shall include a social history, a medical history, a history of alcohol abuse and/or drug abuse, and previous alcohol and/or drug treatment. This interview must be completed within twenty-four hours of admission:

(b)) complete an evaluation and assessment of the client's involvement with alcohol and ~~((/or)) other drugs ((supported by a list of the signs and symptoms observed. The evaluation and assessment)) which must be completed within twenty-one days of admission or by the third visit, whichever comes earlier, in an outpatient facility and within five days of admission in a residential facility. ~~((c))~~~~

(5) Outpatient and residential facilities shall prepare a written assessment statement based on the information collected under WAC 275-19-165(2) and which shall include, at a minimum:

(a) The counselor's diagnosis of the client's involvement with alcohol and other drugs, including the type of substances used and the degree of progression in the disease if a diagnosis of alcoholism or other addiction is determined and the signs and symptoms which substantiate the diagnosis;

(b) The counselor's assessment of the following screening criteria to assure placement of the client in an appropriate treatment modality. The client's:

(i) Motivation for recovery;

(ii) Ability to attain and maintain abstinence;

(iii) Social support system, including family or significant others, financial condition, and employment status;

(iv) Physical health and general mental status. This shall include the client's own statement describing their current physical health and the counselor's observations regarding the client's current physical, mental, and medical health condition; and

(v) Assets or strengths and needs or weaknesses, as perceived by the client, facility staff, and, if possible, involved others.

(c) The counselor's treatment recommendations including modality and length of the treatment.

(6) All facilities shall inform the client of the results of the assessment and their right to be referred to any approved treatment facility offering services consistent with the results of the assessment.

(7) Outpatient and residential facilities shall complete an individual treatment plan designed to help the person

understand his or her alcohol or drug problem, taking into account all case history and diagnostic information.

(a) The plan shall include:

(i) The specific problems to be addressed,

(ii) The objectives to be accomplished in treating the problems,

(iii) ~~The ((time-linked means))~~ time frame and methods to be used in achieving the objectives, and

(iv) The anticipated length of treatment.

(b) The initial treatment plan must be prepared within twenty-one days of admission or by the third visit, whichever comes earlier, in an outpatient facility and within five days of admission in a residential facility. ~~((d) A))~~

(c) All residential detoxification facilities shall consider doctor's standing orders as a treatment plan.

(8) All outpatient and residential treatment facilities shall provide the client a copy of the program rules governing the client ~~((will be provided to the applicant))~~ prior to signing any treatment consent forms.

~~((2))~~ (9) All outpatient and residential facilities shall have written policies and procedures specifying the program's physical and laboratory examination requirements. The policies shall include ~~((at least))~~ the following ~~((basic))~~ minimum requirements:

(a) Residential drug addiction or drug abuse treatment clients ~~((must))~~ shall have a complete physical and laboratory examination ~~((:))~~;

(b) All methadone treatment clients ~~((must))~~ shall have physical and laboratory examinations performed in accordance with WAC 275-19-940 and federal regulations governing the use of methadone for treating narcotic addicts ~~((:))~~;

(c) All clients showing current intravenous drug use ~~((must))~~ shall have a physical examination ~~((:))~~;

(d) All clients showing current dependence of barbiturates or benzodiazepines ~~((must))~~ shall be examined by a physician to determine if they should be referred to a program or hospital capable of providing gradual withdrawal ~~((-3))~~; and

(e) Physical examinations, if required, ~~((must))~~ shall be completed and the report placed in the client's file no later than twenty-one days following admission. Physical examinations completed by a private physician ninety days or less prior to intake may be accepted.

~~((4))~~ (10) There shall be at least one face-to-face group or individual session for each client every month in outpatient programs, and at least one such session every week in residential programs.

~~((5))~~ Facilities shall limit all group counseling sessions to not more than twelve clients in size.

(11) All facilities shall provide client education regarding alcohol, alcoholism, drugs, drug addiction, and HIV/AIDS.

(12) No more than twenty percent of treatment time shall consist of film or video presentations.

(13) Whenever possible, the facility shall involve the client's family or other social support system in the treatment program. The facility shall document evidence of attempts to involve the client's family or other social support system in the client file.

(14) The facility shall encourage all clients and their families to participate in self-help groups, e.g., Alcoholics Anonymous, Alanon, Alateen, Narcotics Anonymous, and Naranon as appropriate.

(15) All approved treatment facilities shall have a documented review of each case ((by a qualified counselor. These reviews shall)) to assess the adequacy of the treatment plan in light of the client's current status and progress. Facilities shall conduct the reviews ((shall be conducted)) according to the following minimum schedule:

(a) Once ((every two weeks)) each week in ((recovery houses,) intensive inpatient;

(b) Once ((each month in extended care recovery houses)) every twenty hours of client services in intensive outpatient,

(c) Once every two weeks in recovery house and long-term,

(d) ((Once each week in intensive inpatient,

e)) Once each month in outpatient(;

f) Once every twenty hours of client services in intensive outpatient)) and extended care recovery house.

((6)) (16) All treatment services using chemotherapy shall provide the following medication services:

(a) Medication evaluation by a medical practitioner at least once every ninety days except for medications prescribed by the client's own physician(-); and

(b) A medication dispensary if the program is providing methadone treatment.

((7)) (17) Facilities shall secure medications ((shall be secured)) and ((disbursed)) disburse in accordance with the requirements of chapter 248-26 WAC.

((8) Clients using disulfiram must be participating in a counseling program.

((9)) (18) Upon completion of the course of treatment, except in detoxification facilities, facilities shall:

(a) Develop an aftercare plan ((shall be developed)) assisting the client in maintaining treatment goals(-);

(b) Assist the client ((shall be assisted)) in identifying and making contact with any agencies or services as may be necessary to address any unresolved problems listed on the treatment plan;

(c) Furnish a copy of the aftercare plan to each client upon discharge from the treatment facility; and

(d) Provide a copy of the aftercare plan to the client upon discharge from the facility.

(19) Facilities shall write a discharge summary for each client upon discharge or transfer from each approved treatment service. It shall include, at a minimum, the date of discharge and a summary of the client's progress toward each of the treatment objectives listed on the treatment plan. In detoxification facilities, the summary shall describe the client's physical condition as it relates to detoxification or withdrawal at the time of discharge.

((10)) (20) When referring or transferring a client to another approved treatment facility, or when a client elects to transfer to another approved treatment facility, the facility shall:

(a) Send the following documentation ((shall be sent)) to ((that)) the receiving facility prior to the arrival of

the client, provided a release of confidential information is authorized by the client; or ((accompany))

(b) Provide the following documentation to the client for hand carrying to the facility((, provided a release of confidential information has been authorized by the client)):

((a)) (i) A copy of the client intake form(-);

((b)) (ii) A record of the assessment(-);

((c)) (iii) A record of the client's treatment history(-);

((d)) (iv) The reason for the referral (self, family, court order)(-);

((e)) (v) Court mandated or agency recommended follow-up treatment(-);

((f)) (vi) A copy of the discharge summary; and

(vii) A copy of the aftercare plan.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-170 ALL FACILITIES—RECORDS. (1) All treatment facilities shall have an accurate and complete record system:

(a) Providing for maintenance of a current and complete record for each client;

(b) Providing a systematic method of identifying and filing client's records so each record can be located readily;

(c) Ensuring confidentiality of patients' case records by storing and handling the records under conditions meeting all pertinent federal, state, and local regulations governing such records; and

(d) Including all required state and county data((-and

e) Reflecting all financial transactions of the facility)).

(2) The treatment facility shall retain client file records required in this section ((shall be retained by the treatment facility)) for a minimum of five years following the discharge or transfer of the client.

In the event an approved treatment facility is closed, the facility may forward clinical records ((may be forwarded)) to any other approved treatment center with the client's consent. ((Clinical records still subject to minimum retention requirements, where client consent is not obtained;)) The facility shall ((be sealed)) seal and ((labeled)) label the records still subject to minimum retention requirements, where client consent is not obtained, as follows: "Records of (insert name of approved treatment facility) required to be maintained pursuant to WAC 275-19-170, until a date not later than December 31, (insert year)." The facility shall forward sealed records ((shall be forwarded)) to the department, and the department shall ((be disclosed)) disclose the records only under such circumstances and to such extent as would be permissible for the program in which they originated.

(3) Residential and outpatient facilities shall have individual case records including the following:

(a) An intake form including the client's:

(i) Full name;

(ii) Sex;

(iii) Birthdate;

(iv) Home address;

- (v) Date of admission;
 - (vi) Name, address, and telephone number of the client's next of kin or other responsible person; and
 - (vii) Name and city of the client's personal physician, if any.
- (b) A record of the assessment of the client's involvement with alcohol and ~~(/or)~~ drugs ~~((including the signs and symptoms:))~~ required by WAC 275-19-165 (2)(a);
- (c) An individualized treatment plan as prescribed in WAC ~~((275-19-165(1)(c)))~~ 275-19-165 (2)(b). Doctor's standing orders shall be considered as a treatment plan in inpatient detoxification facilities~~(:);~~;
- (d) Progress notes ~~((on))~~ shall relate to the treatment plan and provide a record of the counselor's ongoing assessment of the client's response to treatment, progress in recovery, relating to or updating the objectives or methods to be used to achieve objectives of problems listed on the treatment plan, and noting all significant events occurring during treatment. The counselor shall enter at least one progress note every work shift ~~((must be entered))~~ in inpatient detoxification client's file~~(:);~~;
- (e) A record of the treatment plan review required by WAC ~~((275-19-165(5):))~~ 275-19-165(9);
- (f) Each entry in a client's record shall be authenticated~~(:);~~;
- (g) A copy of ~~((any program))~~ agency rules signed and dated by the client~~(:);~~;
- (h) A voluntary consent to treatment form, signed and dated by the client~~(:);~~;
- (i) ~~((A))~~ Properly completed authorization for release of information form~~(:)~~ or forms;
- (j) A copy of the client's aftercare plan~~(:)~~ required by WAC 275-19-165(13);
- (k) ~~((At completion of treatment, a))~~ A copy of the client's discharge summary ~~((including the date of discharge, and a summary of the client's progress in meeting the objectives outlined in the treatment plan. In detoxification facilities, the summary shall outline the client's physical condition relating to detoxification or withdrawal:))~~ required by WAC 275-19-165(14); and
- (l) Medical records in accordance with chapter 248-26 WAC and WAC 275-19-165(3).
- (4) DWI client assessment service facilities including probation assessment facilities shall have individual case records including at a minimum:
- (a) An intake form including the client's full name, sex, birthdate, and home address~~(:);~~;
 - (b) The dates of contacts~~(:);~~;
 - (c) A copy of the completed Washington alcohol screening inventory showing the client's score~~(:);~~;
 - (d) A copy of the client's driving record obtained from the department of licensing files~~(:)~~, if available;
 - (e) A record of the client's blood alcohol level at the time of arrest or documentation the information was not available~~(:);~~;
 - (f) A record of the client's alcoholism and/or drug treatment history~~(:);~~;
 - (g) The name of the court ~~((referring))~~ that is handling the ~~((client for assessment, including the name of the sentencing judge:))~~ client's DWI or physical control charge;

- (h) A record of the evaluation and assessment of the client's involvement with alcohol and other drugs as required by WAC ~~((275-19-185:))~~ 275-19-770;
 - (i) A properly completed authorization for the release of information form~~(:);~~;
 - (j) Copies of any assessment reports sent to the department of licensing, referring court, the client's attorney, or other person or agency~~(:);~~;
 - (k) Copies of all correspondence relating to the client~~(:);~~ and
 - (l) Each entry in a client's record shall be authenticated.
- (5) ~~((Alcohol))~~ Information schools ~~((or drug information schools))~~ shall have individual case records including:
- (a) An intake form, including the client's full name, sex, birthdate, and home address;
 - (b) Dates in attendance;
 - (c) Source of referral;
 - (d) Copies of all reports, letters, certificates, and other correspondence sent to attorneys, courts, department of licensing, or any other agency;
 - (e) A record of any referral of the client to other services;
 - (f) A properly completed authorization for release of information form;
 - (g) A copy of the completed, scored, post-test as written in ~~((An Instructor's Guide to Alcohol Information School))~~ An Instructor's Guide to Alcohol and Other Drug Information School, published ~~((January 1986))~~ in 1986, as now or hereafter amended~~(:);~~ and
 - (h) Each entry in a client's record shall be authenticated.
- (6) Emergency service patrols shall maintain a log including:
- (a) The time and origin of the call received,
 - (b) The time of arrival at the scene,
 - (c) The location of the pickup,
 - (d) The name and sex of the person transported,
 - (e) The destination of transport (either home or inpatient detoxification facility), and
 - (f) The time of transport completion~~(:);~~;
 - (g) In nonpickup cases, notation shall be made of the reason why said pickup was not made~~(:)~~, and
 - (h) Each entry in the log shall be dated and signed by the person making the entry.
- (7) ADATSA chemical dependency assessment centers shall have individual case records including, at a minimum:
- (a) ~~((An intake form including:))~~
 - (i) Client's full name;
 - (ii) Address;
 - (iii) Sex;
 - (iv) Birthdate;
 - (v) Assessment date;
 - (vi) Address and telephone number of the client's next of kin, or other emergency contact; and
 - (vii) Name and city or telephone number of the client's physician, if any;
 - (b) A properly completed assessment ~~((and case supervision))~~ form ~~((provided))~~ approved by the bureau;

~~((c))~~ (b) A record of the assessment of the client's involvement with alcohol and drugs recording all of the information required by WAC 275-19-185(2);

~~((d))~~ (c) A record of the client's own assessment of his or her involvement with alcohol and drugs;

~~((e))~~ (d) A record of the client's own assessment of his or her mental health problems and any physical incapacity;

~~((f))~~ (e) A properly completed authorization for release of confidential information form meeting all state and federal requirements;

~~((g))~~ (f) A record of the placement of the client in each residential and outpatient ADATSA component including the date of the placement, the name of the treatment center or shelter, and the dates each phase of treatment or shelter will begin;

~~((h))~~ (g) Copies of all reports and correspondence related to the client;

~~((i))~~ (h) Notes documenting contacts by telephone or in person concerning the client;

~~((j))~~ (i) A termination summary; and

~~((k))~~ (j) Each entry in the client's record shall be authenticated.

(8) All residential treatment facilities shall have a permanent, current register of all persons admitted for care or treatment. This shall include at a minimum the date of admission, the client's name, and the date of discharge or transfer.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-180 RESIDENTIAL AND OUTPATIENT FACILITIES—CASE MANAGEMENT.

(1) The goal of treatment ~~((rationate))~~ shall be ~~((designed to achieve))~~ total abstinence for all diagnosed alcoholics and drug addicts.

~~((2))~~ ~~((Concurrent drug and alcohol use shall be explored with each client.~~

~~((3))~~ For each client ~~((there))~~, the facility shall ~~((be))~~ provide a case manager responsible for completeness of records and documentation of progress toward ~~((an))~~ attainment of the treatment objectives.

~~((4))~~ (3) Case managers shall be:

(a) Qualified counselors in all intensive inpatient, long-term treatment, recovery house, extended care recovery house, outpatient, and intensive outpatient facilities.

(b) Qualified counselors or licensed nurses in detoxification facilities. Only qualified counselors or counselor trainees working under the supervision of qualified counselors shall conduct the assessments of the client's involvement with alcohol or drugs and provide counseling services in a detoxification facility.

~~((5))~~ (4) Case managers shall, either by doing themselves or by reviewing and approving the work of counselor trainees, conduct the client evaluation and assessments, develop the individualized treatment plans, ~~((conduct the treatment plan reviews required by WAC 275-19-165 (1)(b) and (c) and 275-19-165(5), and develop))~~ aftercare plans and discharge summaries, and provide counseling services.

(5) Case managers shall conduct the treatment plan reviews required by WAC 275-19-165(9).

(6) Case managers shall be responsible to follow up on clients missing appointments and to pursue all opportunities to keep the client in treatment. In the event a client, who has been court ordered to a treatment program aborts the treatment program, the counselor shall report that fact ~~((shall be))~~ promptly ~~((reported))~~ to the committing authority provided an authorization for the release of confidential information is on file.

(7) ~~((There))~~ The clinical supervisor shall ~~((be a documented))~~ document quarterly reviews of the adequacy of at least four case files of each counselor ~~((by the clinical supervisor)).~~

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-260 ALL DETOXIFICATION FACILITIES—DISCHARGE AND REFERRAL. The facilities shall refer all clients discharged ~~((shall be referred))~~ to an ADATSA or approved treatment facility when appropriate and/or to other health care ~~((facility))~~ when necessary.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-270 ACUTE DETOXIFICATION—ADDITIONAL REQUIREMENTS. Any treatment facility providing acute detoxification services shall ~~((comply with the following additional requirements:~~

~~((1))~~ ensure the client's physical and health care needs ~~((shall be))~~ are met by practices meeting the standards set forth in chapter 248-26 WAC. The facility may provide juices, snack foods, and other like foods capable of being ingested by a person undergoing detoxification in lieu of formal menus as specified in chapter 248-26 WAC.

~~((2))~~ ~~All personnel providing client care in the absence of licensed physicians or nurses in the facility shall possess:~~

~~((a))~~ ~~A valid and current red cross card or certificate for first aid; and~~

~~((b))~~ ~~Cardiopulmonary resuscitation or the equivalent annually.))~~

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-280 SUBACUTE DETOXIFICATION—ADDITIONAL REQUIREMENTS. Treatment facilities providing subacute detoxification services shall comply with the following additional requirements:

(1) Subacute detoxification facilities shall meet the requirements set forth in chapter 248-26 WAC.

(2) No more than twenty clients shall be served in any one facility or separate units within a facility.

(3) The facility shall be located within five miles driving distance of a hospital or shall have physician-trained, mobile-intensive-care paramedic services as defined in chapter 248-15 WAC available within ten minutes.

(4) Prescription medication shall not be provided for management of withdrawal discomfort.

(5) If a client admitted to the facility has in his or her possession any prescription medications, the staff shall attempt to contact the prescribing physician to check on the accuracy of the prescription, its recommended usage and document the attempts in the client file.

(6) ~~((All personnel providing client care in the absence of licensed physicians or nurses in the facility shall possess:~~

~~(a) A valid and current red cross card or certificate for first aid; and~~

~~(b) Cardiopulmonary resuscitation or the equivalent annually.~~

~~(7))~~ All personnel except licensed physicians providing client care shall ~~((have completed))~~ complete a minimum of forty hours of documented training in alcoholism and/or drug addiction ~~((prior to or))~~, including HIV/AIDS education, within six months of the date of employment.

~~((8))~~ (7) All furnishings and the general decor shall reflect a homelike environment. Each of the following areas shall be provided and structured as stated:

(a) The dining area shall have provisions for family-type eating arrangements~~((:));~~

(b) Sleeping areas shall be arranged so as to permit observation of residents and encourage resident communication~~((:));~~

(c) A lounge shall have adequate space for relaxation, group discussion, and peer group interaction~~((:));~~ and

(d) The reception area shall be separate from living areas in order to maintain the comfort and privacy of residents. There shall be a client reception desk and a comfortable chair for use by those seeking entry.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-300 INTENSIVE INPATIENT TREATMENT FACILITIES—PURPOSE. The purpose of WAC 275-19-300 through 275-19-399 is to provide specific program standards for facilities providing intensive inpatient treatment services as defined in WAC 275-19-020. To be approved as a treatment facility to provide intensive inpatient treatment services, the facility ~~((must))~~ shall comply with the applicable requirements of WAC 275-19-010 through 275-19-199, 275-19-300 through 275-19-399, chapter 248-26 WAC, and chapters 69.54 and/or 70.96A RCW.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-320 INTENSIVE INPATIENT TREATMENT FACILITIES—REQUIRED SERVICES. There shall be an organized program and staff sufficient to provide the following services ~~((by qualified counselors))~~:

(1) Education of clients regarding alcohol, alcoholism, drugs, and drug addiction;

(2) Intensive individual and group counseling;

(3) A minimum of twenty hours of counseling services per week for each client;

(4) Social and recreational activities;

(5) Aftercare planning;

(6) Discharge and referral to necessary supportive organizations and agencies; and

(7) An invitation and encouragement to family members to participate in their own treatment program and in the treatment of the client. Treatment facilities shall inform family members ((shall be informed)) of the desirability of participation in family counseling, Alanon, Naranon, Alateen, and other self-help or specific group or individual resources, and be encouraged to pursue these subsequent to treatment.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-410 LONG-TERM TREATMENT FACILITIES—CLIENTS. ~~((Persons needing detoxification or withdrawal shall not be admitted or retained but shall be referred or transferred to a detoxification facility unless they manifest signs and symptoms of a condition warranting acute care and treatment in a hospital))~~ Long-term treatment facilities shall limit admission of clients to persons who meet the following criteria:

(1) Facilities approved to provide alcoholism long-term treatment services shall limit admission of clients to persons who:

(a) Are alcoholic and have accepted voluntary treatment in lieu of being involuntarily committed to long-term treatment. A copy of the signed, dated, and completed involuntary commitment petition having been filed with the superior court or district court; the client's signed voluntary admission to treatment, and any other supporting information, shall accompany clients sent to a long-term treatment facility. These documents shall be placed in the client's file at the long-term facility; or

(b) Are alcoholic and have been involuntarily committed to a long-term treatment facility under RCW 70.96A.140.

(2) Facilities approved to provide drug addiction long-term treatment services shall limit admission of clients to persons who are addicted to drugs other than alcohol and are in need of long-term treatment.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-430 LONG-TERM TREATMENT FACILITIES—REQUIRED SERVICES. There shall be an organized program and staff sufficient for facilities to provide the following services ~~((by qualified counselors))~~:

(1) Education of clients regarding alcohol and alcoholism, drugs, and drug addiction;

(2) Individual and group counseling;

(3) Education concerning social and life-coping skills;

(4) Social and recreational activities;

(5) When appropriate, assistance in finding employment;

(6) Aftercare planning; and

(7) Discharge referral to necessary supportive organizations and agencies.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-530 RECOVERY HOUSE FACILITIES—REQUIRED SERVICES. There shall be an organized program and staff sufficient for facilities to provide the following services by qualified counselors:

(1) A minimum of four and one-half hours of counseling services per week for each client ~~((If group counseling services are provided, not more than fifteen clients may be in a group))~~;

(2) ~~((When appropriate, assistance))~~ Vocational services to assist the client in finding employment;

(3) Referral to necessary supportive organizations and agencies.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-560 EXTENDED CARE RECOVERY HOUSE FACILITIES—CLIENTS. ~~((Persons needing detoxification shall not be admitted or retained but shall be referred or transferred to a detoxification facility unless they manifest signs and symptoms of a condition warranting acute care and treatment in a hospital))~~ Extended care recovery house facilities shall limit admission to persons:

(1) In need of residential care whose toxicity precludes them from being able to participate in intensive inpatient treatment; and

(2) For whom the extended care recovery program will provide a more appropriate place of primary treatment and recovery house services.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-570 EXTENDED CARE RECOVERY HOUSE FACILITIES—REQUIRED SERVICES. There shall be an organized program and staff sufficient for facilities to provide the following services:

(1) A minimum of four and one-half hours of treatment services per week by qualified counselors to include the following:

(a) Education regarding living sober and drug-free;

(b) Individual and/or group counseling ~~((conducted by qualified counselors. If group counseling services are provided, not more than fifteen clients may be in a group))~~.

(2) ~~((When appropriate, assistance))~~ Vocational services to assist the client in finding employment((-));

(3) Referral to necessary supportive organizations and agencies((-)); and

(4) ~~((A program designed to provide treatment services to alcoholics or drug addicts meeting one of the following admissions criteria:~~

~~(a) Received detoxification services three or more times within three months prior to the referral agency's current client evaluation date. Detoxification or withdrawal services must have been received in a licensed hospital or in a state-approved detoxification facility.~~

~~(b) Received intensive inpatient treatment in a state-approved treatment facility for a period of seven days or~~

~~more within six months prior to the referral agency's current client evaluation date.~~

~~(c) Received long-term, recovery house, or extended care recovery house treatment in a state-approved treatment facility for a period of seven days or more within six months prior to the referral agency's current client evaluation date.~~

~~(d) Accepted voluntary treatment in lieu of being involuntarily committed to extended care recovery house treatment. A copy of the signed, dated, and completed involuntary commitment petition having been filed with the superior court, the client's signed voluntary admission to treatment, and any other supporting information must accompany clients sent to an extended care recovery house treatment facility. These documents must be placed in the client's file at the extended care recovery house facility.~~

~~(e) Has been involuntarily committed to an extended care recovery house treatment facility per RCW 70.96A.140.~~

~~(5))~~ The facility shall design the program ((shall be designed)) to provide client care and treatment for a period in excess of sixty days.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-590 CHEMICAL DEPENDENCY ASSESSMENT CENTERS—REQUIRED SERVICES. Approved chemical dependency assessment centers shall provide:

(1) An alcohol and drug assessment of all clients providing, at a minimum, the ~~((evaluation required by WAC 275-19-185(2)))~~ following:

(a) A diagnostic interview with a qualified counselor, or counselor trainee under the supervision of a qualified counselor, as defined in WAC 275-19-145, gathering at a minimum, the information required on an ADATSA assessment form approved by the bureau;

(b) The counselor's written assessment summary statement concerning the client's diagnosis of alcoholism or drug addiction and whether or not the client is incapacitated as a result; and

(c) A record of the outcome of the assessment interview with the client, indicating the decisions reached by the counselor as to the treatment and shelter plan the client is to follow.

(2) A preliminary screening of clients and referral of those clients qualifying for social security supplemental income or general assistance-unemployable benefits based on mental illness or physical disability to the department's local community services office.

(3) Case supervision of treatment and/or shelter services for clients admitted to the ADATSA program.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-610 OUTPATIENT TREATMENT FACILITIES—REQUIRED SERVICES. There shall be an organized program and staff sufficient for the facility to provide the following services by qualified counselors:

(1) Assessment of each client's needs regarding specific alcohol-related and ~~((/or))~~ drug-related problems ~~((as perceived by the client, center staff, and, if possible, involved others));~~

(2) ~~((Immediate evaluation for persons in a crisis))~~ Referral to treatment and ancillary facilities for services consistent with the assessment;

(3) Individual and group counseling ~~((on a scheduled basis));~~

(4) Education on alcohol and drugs; and

(5) Discharge and referral to necessary supportive organizations and agencies.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-660 INTENSIVE OUTPATIENT FACILITIES—REQUIRED SERVICES. There shall be an organized program and staff sufficient for facility to provide the following services ~~((by qualified counselors));~~

(1) Assessment of each client's needs regarding specific alcohol and ~~((/or))~~ drug-related problems ~~((as perceived by the client, facility staff, and if possible involved others.));~~

(2) ~~((Screening criteria shall be developed and applied including such diagnostic techniques as needed to assure the appropriateness of placement in this treatment modality. The diagnosis shall, at a minimum, include an assessment of the client's:~~

~~(a) Progression in the disease of alcoholism and/or drug addiction;~~

~~(b) Motivation for recovery and the ability to attain and maintain abstinence on an outpatient basis;~~

~~(c) Social support systems, including family or significant others, financial condition, and employment status; and~~

~~(d) Physical health and general mental status.~~

~~(3))~~ Program requirements. The facility shall provide the following services ~~((shall be provided))~~ to clients ~~((and their families)):~~

(a) The program shall deliver a minimum of seventy-two hours of treatment services within a maximum of twelve weeks. The first four weeks of treatment ~~((must))~~ shall consist of a minimum of three sessions of at least one hour each on three separate days of each week;

(b) ~~((A review of each active case by the client's case manager not less than once in every twenty hours of treatment. This review shall be noted in the client's case file;~~

~~(c))~~ Individual counseling sessions with each client every twenty hours of treatment and additionally as needed;

~~((d))~~ (c) Education of clients regarding alcohol, alcoholism, and/or drugs and drug addiction;

~~((e))~~ No more than twenty percent of treatment time shall consist of film presentations;

~~(f))~~ (d) Group therapy sessions ~~((Sessions shall be limited in attendance to no more than twelve clients per counselor;~~

~~(g))~~ Whenever possible, the client's family or other social support system shall be substantially involved in the treatment program); ~~((h))~~ and

(e) Upon completion of intensive outpatient treatment, the facility shall refer the client ~~((shall be referred))~~ to a structured aftercare program ~~((and~~

~~(i) All clients and their families shall be encouraged to participate in Alcoholics Anonymous, Alanon, Alateen, Narcotics Anonymous, and Naramon as appropriate)).~~

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-675 ADATSA OUTPATIENT TREATMENT FACILITIES—PURPOSE. The purpose of WAC 275-19-675 through 275-19-699 is to provide specific operational program standards for facilities providing ADATSA outpatient treatment services ~~((as described in WAC 275-19-020)).~~ To be approved as an ADATSA outpatient treatment facility, the facility must comply with the applicable requirements in WAC 275-19-010 through 275-19-199, 275-19-675 through 275-19-699, and chapters 69.54 and 70.96A RCW.

AMENDATORY SECTION (Amending Order 2044, filed 11/4/83)

WAC 275-19-760 DWI CLIENT ASSESSMENT SERVICES—CLIENTS. ~~((Admission of clients to a treatment facility providing))~~ DWI ~~((client))~~ assessment facilities shall limit assessment services ~~((shall be limited))~~ to persons who have been arrested for a violation of driving while under the influence of intoxicating liquor or drugs (RCW 46.61.502), or actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs (RCW 46.61.504) ~~((or petitioning for a deferred prosecution (chapter 10.05 RCW) for those offenses)).~~

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-770 DWI CLIENT ASSESSMENT SERVICES—REQUIRED SERVICES. DWI assessments shall include, in addition to the requirements of WAC 275-19-165 (2), (5), (6), and (7), the following:

(1) Qualified counselors or qualified assessment officers as defined in WAC 275-19-145 shall ~~((provide the following services:~~

~~(a) Assess client's involvement with alcohol and other drugs))~~ conduct the assessments;

(2) Administration of a written screening instrument using, as a minimum, the Washington alcohol screening inventory ~~((and a diagnostic interview as required by WAC 275-19-185:~~

~~(b) Prepare a written assessment statement of each client's involvement with alcohol and other drugs which includes all of the information required by WAC 275-19-185.~~

~~(c) Inform each client of the right to select and be referred to an approved alcohol or drug treatment facility for services which are consistent with the assessment.~~

(2) Provide any requested reports of the assessment, in the format required, to the court of jurisdiction, the

department of licensing, and any other authorized agency or person);

(3) An evaluation of the client's blood alcohol and/or drug level at the time of arrest for any alcohol or other drug-related offense, if available;

(4) An evaluation of the client's report of their driving record;

(5) Include in the written assessment required by WAC 275-19-165(5) the following:

(a) The client's raw score and percentile score from the Washington alcohol screening inventory; and

(b) The client's own assessment of his or her involvement with alcohol and other drugs.

(6) If the assessment concludes the person has an alcohol or drug problem requiring treatment, the facility shall advise the person to seek appropriate approved treatment. If the assessment concludes the person requires only alcohol and drug education, the facility shall refer the person to an approved information school.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-810 INFORMATION SCHOOL—SCHOOL REQUIREMENTS. (1) The course shall be taught by a qualified information school instructor as defined in WAC 275-19-145. ~~((This requirement shall become effective July 1, 1984.))~~

(2) Prior to beginning the first lesson, the instructor shall:

(a) Advise the students the course:

(i) Does not assume they are all alcoholics or drug addicts(-); and

(ii) Is not a therapy session.

(b) Clearly identify and share the class rules with the students(-); and

(c) Share the course objectives with the students.

(3) Seating shall be adequate and comfortable.

(4) Rooms shall be well-lit and well-ventilated.

(5) The facility shall properly complete and submit in a timely manner all reports required by the courts and the department of licensing ((shall be properly completed and shall be submitted in a timely manner)).

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-820 INFORMATION SCHOOL—CURRICULUM. (1) Instructors at the information ((course must be taught following)) school shall teach the content and objectives ((outlined)) contained in ((An Instructor's Guide to Alcohol Information School)) An Instructor's Guide to Alcohol and Other Drugs Information School, published ((January 1980)) in 1986, as now or hereafter amended.

(2) The ((alcohol information school curriculum shall include the following:

(a) Adequate information regarding alcohol, alcohol abuse, and alcoholism;

(b) Information on the current laws addressing drinking alcoholic beverages and driving a motor vehicle;

(c) Information on the effect of the use of alcohol on driving ability;

(d) Information regarding the availability of alcoholism treatment resources, for the primary alcoholic and his or her family;

(e) Information on the dangers of the use of alcohol in combination with other drugs;

(f) Information on the impact of alcohol abuse and alcoholism on the family;

(3) ~~The)) curriculum shall consist of not less than eight nor more than ((twelve)) fifteen hours of classroom instruction((:~~

(4) ~~Not)) with no more than three hours of instruction ((shall be)) conducted in any one day.~~

~~((5)) (3) Instructors shall administer the post-test, as written in ((An Instructor's Guide to Alcohol Information School)) An Instructor's Guide to Alcohol and Other Drugs Information School, published ((January 1980)) in 1986, as now or hereafter amended, ((shall be administered)) to each enrolled student after the instruction sessions are completed.~~

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-940 ALL METHADONE TREATMENT FACILITIES—INTAKE TREATMENT REQUIREMENTS. (1) Sick physicals. Methadone treatment facilities shall provide each patient, upon application by the patient for admission to methadone treatment, a sick physical by a program physician or other appropriately licensed health professional. Methadone treatment facilities shall not prescribe methadone for a patient until a sick physical has been completed and a diagnosis of current physiological dependence on an opiate drug has been reached, except as provided in subsections (8) and (9) of this section. The sick physical shall include observations of the presence or absence of the following signs which the facility shall ~~((be documented)) document in the clinical file:~~

(a) ~~((Rhinorrhea [rhinorrhea])) Rhinorrhea,~~

(b) Pupillary dilation,

(c) Piloerection,

(d) Elevated body temperature,

(e) Elevated pulse rate,

(f) Elevated blood pressure,

(g) Elevated respiration rate,

(h) Lacrimation, and

(i) Intravenous injection site scars.

(2) Overall health evaluation. Methadone treatment facilities shall conduct and document in the client file an overall health evaluation of each patient by a program physician or other appropriately licensed health practitioner within ~~((one week)) twenty-one days~~ of admission to methadone treatment.

(3) Physician involvement in sick physicals. Methadone treatment facilities shall make a program physician available for consultation by telephone or in person when sick physicals are conducted by anyone other than a program physician. A program physician shall conduct sick physicals for all juvenile patients and for all adult patients with unusual or ambiguous signs or symptoms.

(4) Follow-up examination. Following the initial dose of methadone, treatment facilities shall ~~((conduct and~~

~~document an in-person, physical examination of the patient. Such an examination shall be conducted as close as possible to the time when methadone blood levels are highest, typically three to four hours after a dose is provided to the patient. The examination shall~~) establish adequacy of dose, including signs and symptoms of withdrawal, patient comfort, and side effects from over-medication.

(5) Documentation of addiction history. Methadone treatment facilities shall note all observations, tests, reported symptoms, and documents certifying addiction history, and shall retain such documentation in the patient's clinical record. Methadone treatment facilities shall include in each patient file a summary analysis of all diagnostic data.

(6) Documentation of doses. Methadone treatment facilities shall note the date and amount of the initial dose and the date and amount of all dose changes in the patient's clinical record.

(7) Documentation of physiologic addiction. Methadone treatment facilities shall document evidence supporting diagnoses of addiction for all patients who are prescribed methadone. ~~((The department shall conduct an after-the-fact review of a random sample of all patient records, examining sick physical documentation and the resulting diagnosis:))~~

(8) Exception to sick physicals. Recently detoxified patients. Methadone ~~((treatment facilities))~~ program physicians may restart methadone medication without a sick physical for patients detoxified from methadone within the last two years ~~((, who continue to receive at least one face-to-face counseling session per month, lasting at least forty-five minutes per session))~~.

(9) Exception to sick physicals—Penal, chronic care, and pregnant clients. Methadone treatment facilities may admit and prescribe methadone to penal, chronic care, and pregnant patients without meeting sick physical requirements, provided the facility has followed the rules outlined in federal regulations, 21 C.F.R. Part 291.505 (d)(3)(iii)(a) and (b), adopted September 19, 1980.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-950 ALL METHADONE TREATMENT FACILITIES—URINALYSIS TREATMENT REQUIREMENTS. (1) Urinalysis frequency. All patients shall submit urine samples for urinalysis at least once per month. After a patient has a positive urine, the patient shall submit ~~((four))~~ two urine samples per month for urinalysis. The patient shall continue to submit at least ~~((four))~~ two samples per month until the patient has at least four consecutive negative urines, after which the patient may return to once-a-month submittal.

(2) Random sampling. Methadone treatment facilities shall randomly schedule all urine sample submissions, without prior warning to the patient.

(3) Sampling procedures. Methadone treatment facilities shall ensure staff observation of all collections of urine samples. Facility staff shall seal samples immediately in patient's presence with a prenumbered seal. The

patient shall initial a log of sample seal numbers next to the seal number. Methadone treatment facilities shall void and retain broken or unusable seals. Facilities shall keep logs of sample seal numbers confidential, apart from all other patient records. Facilities shall discard contaminated samples and samples with broken seals.

(4) Required screens. Each urinalysis shall include qualitative analysis for the presence of opiates, methadone, amphetamines, cocaine, barbiturates, and other drugs as indicated by the patient's drug use history. The urinalysis may instead include qualitative analysis for metabolites of such drugs, if such analysis would yield more accurate results.

(5) Refusal to give sample. Methadone treatment facilities shall treat a patient's refusal to provide a urine sample upon request, for whatever reason, or a patient's refusal to initial the log of seal number in the same manner as a positive urine.

(6) Positive urines. Methadone treatment facilities shall report and discuss all positive urines ~~((to))~~ with the patient ~~((and discuss))~~ in a counseling session within seven days of obtaining the results from the drug testing laboratory.

(7) Dose increase justification. Following stabilization, methadone treatment facilities shall justify all dose increases in the patient's record. Positive urines alone shall not be considered adequate justification. Additional data on desirability of dose increases shall be documented in the patient's record, including signs and symptoms of withdrawal, patient discomfort, or other medically justifiable reasons.

(8) Mandatory discharge for positive urines. Methadone treatment facilities shall discharge any patient with three consecutive positive urines collected later than ninety days after admission. Patients so discharged may not be readmitted to methadone treatment at any facility for thirty days following the first discharge and for ninety days following the second and subsequent discharges.

(9) Mandatory discharge for absence of methadone in urine—Absence of methadone. Methadone treatment facilities shall discharge any patient receiving methadone and whose urinalysis fails to confirm the presence of methadone or methadone metabolite, unless the facility can confirm physiological reasons for the lack of detectable methadone or methadone metabolite. ~~((Confirmation))~~ Confirmation may include a dose level less than ten milligrams daily, a urinalysis of a second sample taken twenty-four hours after in-person administration of a dose which also fails to confirm the presence of methadone or methadone metabolite, or documentation showing the client has taken six doses per week at the clinic until a urinalysis shows the presence of methadone or methadone metabolite in the urine. The facility may use other medically justifiable means of confirming physiological reasons for failure to confirm presence of methadone or metabolite. The facility shall document any confirmation ~~((shall be documented))~~ in detail in the patient's record. No methadone treatment facility may admit a patient who has been discharged from any methadone facility pursuant to this subsection during the previous thirty days.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-970 ALL METHADONE TREATMENT FACILITIES—DISPENSARY OPERATIONAL REQUIREMENTS. (1) Authorization of dispensary personnel. Methadone treatment facilities shall designate individuals authorized to enter the dispensary. Those authorizations shall be limited to persons with a clear need to enter.

(2) Dispensary staffing. Methadone treatment facilities shall establish written procedures, especially record-keeping practices, designed to minimize the number of individuals who need to be in the dispensary.

(3) Methadone handling procedures. Methadone treatment facilities shall establish written procedures for all activities involving handling methadone (compounding, dispensing, etc.). The facility shall design such procedures ~~((shall be designed))~~ to minimize error and minimize possibilities for diversion of methadone by staff or others.

(4) Methadone stock inventory. Methadone treatment facilities shall ensure dispensary staff measure all opened stocks of methadone ~~((before and after each period of time during which methadone is compounded, dispensed, or administered. A period of time shall be deemed to conclude, or a new period begin, whenever any staff person enters or leaves the dispensary))~~ at the opening and closing of each dispensing calendar day. Staff shall note the amount measured in methadone inventory records and verify the entry with initials or signature. The staff shall measure all newly opened stocks of methadone ~~((shall be measured))~~ immediately and record the actual amount ~~((recorded))~~ in the same manner. Methadone treatment facilities shall reconcile inventory changes with doses dispensed. If any discrepancy is uncovered during reconciliation of doses dispensed and inventory changes, and any variations in inventory between previous close and current open, the facility shall obtain statements from all dispensary staff persons involved. The program director shall investigate the discrepancy and report all drug losses or disappearances to the federal drug enforcement agency, Washington state board of pharmacy, ~~((and))~~ the department of social and health services, and the county coordinator.

(5) Dispensary schedule. Methadone treatment facilities shall schedule dispensing and other activities to minimize impact on neighboring businesses and residences.

(6) Quantitative analysis. Methadone treatment facilities shall conduct a quantitative analysis of all open methadone stocks whenever a transfer case is reported to the program director pursuant to WAC 275-19-990(6), or whenever the program director has other reason to believe dilution and diversion of methadone stocks may be occurring. The facility shall report methadone concentration below the manufacturer's tolerance ~~((shall be reported))~~ immediately to the federal drug enforcement administration, the Washington board of pharmacy, and the department of social and health services.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-980 ALL METHADONE TREATMENT FACILITIES—COUNSELING TREATMENT REQUIREMENTS. (1) Individual and group counseling. Methadone treatment facilities shall make available sufficient individual and group counseling for each patient to accomplish treatment plan goals and objectives. The facility shall intensify counseling ~~((shall be intensified))~~ ~~((increased))~~ increase in frequency, duration, and/or mode when problems arise, when ~~((requested by))~~ the patient requests, or when progress is no longer being made.

(2) Minimum counseling. Methadone treatment facilities shall ~~((provide))~~ conduct and document, at a minimum, one face-to-face counseling session lasting at least forty-five minutes ~~((t))~~ for group or thirty minutes for individual ~~((t))~~ sessions each week for each patient during the first ninety days after admission. Counseling may be reduced to two face-to-face sessions per month during the next ~~((twelve))~~ six months, and to once per month thereafter. Facilities may not use group counseling sessions with more than twelve patients in attendance to meet this requirement.

(3) Semiannual review. Methadone treatment facilities shall conduct and document an individual counseling session lasting forty-five minutes or more with each patient, between six and seven months after admission, and once every six months thereafter. The purpose of the session is to review treatment progress, revise or reaffirm treatment plan and planned detoxification date, and to review all relevant facts concerning the use of methadone.

(4) Counseling. Methadone treatment facilities shall ensure all counseling is provided by qualified ~~((drug abuse))~~ counselors or counselor-trainees in a manner that is physically and organizationally separate from other activities, particularly dispensing and fee collection, except to the extent necessary for coordination or for resolution of compliance problems such as nonpayment or missed doses. Facilities may not credit counseling occurring while dispensing methadone or collecting fees toward meeting the counseling requirements of this section.

(5) Counselor/patient ratio. Methadone treatment facilities shall provide at least one qualified counselor (full-time equivalent) for each fifty patients. Facilities shall assign each patient to a primary counselor, who shall be a qualified ~~((drug))~~ counselor. The primary counselor ~~((will))~~ shall bear responsibility for the conduct and management of all cases assigned to him or her. No more than fifty cases may be assigned to any primary counselor at one time.

(6) Counselor-trainees. Methadone treatment facilities may provide counseling services using counselor-trainees, if the counselor-trainees are under the direct, close supervision of a qualified ~~((drug))~~ counselor. A qualified ~~((drug))~~ counselor with one or more counselor-trainees may be assigned as primary counselor up to seventy-five patients, including those cases delegated to the counselor-trainees. Each qualified ~~((drug))~~ counselor

may supervise as many counselor-trainees as he or she desires and delegate cases in a responsible fashion, except that no counselor-trainee may be delegated more than thirty-five patients. Primary counselor responsibility for all cases shall rest with a qualified ((drug)) counselor, regardless of whom provides counseling services.

(7) Individualized treatment plans. Methadone treatment facilities shall prepare and document individualized treatment plans for each patient, which must specify the patient's problems; the frequency, mode, and duration of counseling sessions; and the planned detoxification date.

(8) Pregnancy and drugs. Methadone treatment facilities shall provide, to any patient who requests, at least one hour per month of counseling and education on matters relating to pregnancy and street drugs, and the effects of methadone treatment when provided during pregnancy. The facility may provide this session ((may be provided)) in an individual or group setting at the discretion of the facility director.

(9) Family planning professional. Methadone treatment facilities shall have at least one professional, either a qualified ((drug)) counselor, physician, or physician's assistant, who has appropriate training in family planning, prenatal health, and parenting skills.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-985 ALL METHADONE TREATMENT FACILITIES—TAKE-HOME MEDICATION OPERATIONAL REQUIREMENTS. (1) Minimum take-home criteria. Methadone treatment facilities may provide all patients with take-home medication for Sundays and for any legal holiday set forth in RCW 1.16.050, at the discretion of the program physician. The facility shall permit take-home medication on other days ((shall be permitted)) only for stabilized patients who have been receiving methadone for a minimum of ninety days and who have had negative urines for the last sixty days.

(2) Criteria for allowing increased take-homes. Methadone treatment facilities may increase frequency of take-home medication when a patient is judged capable of handling increased frequency of take-home medication. The program shall consider and document in the client file the following in determining whether a patient is responsible in handling methadone:

- (a) Absence of abuse of drugs and alcohol;
- (b) Regularity of attendance, both dispensing and counseling;
- (c) Absence of known criminal activity or activities, especially drug sales;
- (d) Stability of home environment and social relationships;
- (e) Ability to safely store take-home medications;
- (f) A positive balance between therapeutic benefit and the risk of diversion of take-home medication; and
- (g) The program physician shall approve all changes in take-home medication.

(3) ~~((Restriction of take-home privileges following dose increase. For at least seven days following an increase in dose at any time during treatment, methadone~~

~~treatment facilities may provide a patient with take-home medications only for Sundays and legal holidays.~~

~~((4))~~ Maximum take-home privileges. Methadone treatment facilities shall limit the minimum weekly attendance for in-person administration of methadone, the maximum number of daily doses of take-home medication that is provided at any one time, and the maximum total amount of methadone (number of doses multiplied by dose amount) that is provided at any one time, according to the following schedule:

Months Since Admission to Methadone Treatment	Minimum Attendance (In-Person Administration)	Maximum Number of Take-Home Medication Doses	Maximum Total Amount of Take-Home Medication
0 to 3 months	6 days/week	one-day supply	100 mg.
4 to 6 months	((5)) days/week	two-day supply	((70)) mg
7 to 24 months	$\frac{3}{3}$ days/week	two-day supply	140
over 24 months	2 days/week	three-day supply	120 mg. 150 mg.

~~((5) Maximum))~~ (4) Loss of take-homes following positive urines. Methadone ~~((treatment facilities))~~ patients who have two positive urines in the last ninety days shall ~~((limit the maximum number of daily doses of))~~ lose all take-home ~~((medication of patients who have one positive urine in the last ninety days and shall require minimum clinic attendance for in-person administration of methadone for such patients according to the following schedule:~~

Months Since Admission to Methadone Treatment	Minimum Attendance (In-Person Administration)	Maximum Number of Take-Home Medication Doses
0 to 6 months	6 days/week	one-day supply
7 to 24 months	5 days/week	one-day supply
over 24 months	3 days/week	two-day supply

~~Maximum total amount of take-home medication shall not exceed the amounts set forth in the schedule of subsection (4) of this section))~~ privileges. The facility may place patients ((who are restricted to the schedule set forth in this subsection may be placed)) on the schedule set forth in subsection ((4)) (3) of this section if they have no additional positive urines for ninety days.

~~((6))~~ (5) Exceptional take-home; Saturday or Monday holidays. Methadone treatment facilities may provide all patients with one extra take-home dose in addition to the supply limits set forth in subsections (3) and (4) ~~((and (5)))~~ of this section, when a legal holiday falls on a Monday or a Saturday, or when two legal holidays fall on successive days, and restrictions on the patient's take-home medication will not otherwise permit sufficient take-home medication doses for both Sunday and the legal holiday or for both legal holidays.

~~((7))~~ (6) Labeling. Methadone treatment facilities shall label take-home medication containers with the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name, the name of the patient, and the date dispensed.

~~((8))~~ (7) Restarting methadone medication. Methadone treatment facilities may restart medication for patients who undergo planned detoxification, but remain in counseling (at least one face-to-face event per thirty days) for up to two years. Such patients are not considered discharged and may restart medication without sick

physicals. Facilities shall not provide take-home medication to such patients, other than for Sundays and legal holidays, for at least seven days following the restart of medication. After the seven-day period has concluded, facilities may reinstate take-home medication privileges as if medication was uninterrupted.

~~((9))~~ (8) Waivers of take-home standards. A facility's medical director may approve a maximum of three additional take-home doses in a calendar month and a maximum of six additional doses in a calendar year for an individual client. The medical director shall document in the client's file the reasons for approving the additional take-home doses. Methadone treatment facilities shall request approval from the department of social and health services for any and all waivers of take-home medication requirements, in excess of those the medical director can approve, on a case-by-case basis in advance.

AMENDATORY SECTION (Amending Order 2537, filed 9/16/87)

WAC 275-19-990 ALL METHADONE TREATMENT FACILITIES—ADDITIONAL REQUIREMENTS. (1) All methadone treatment facilities shall comply with the applicable requirements in chapter 69.54 RCW.

(2) Double enrollment. Methadone treatment facilities shall participate in periodic meetings, scheduled and coordinated by the department for the purpose of identifying duplicate ~~((or prohibited))~~ admissions. Facility participation shall include attendance by at least one dispensary staff person and provision of a clear, recent photograph of any active patient and the latest photographs of all patients discharged for drug abuse or failure to consume take-home medication who are still barred from readmission by these rules. Programs shall be required to specifically identify all patients admitted since the previous meeting ~~((, all patients enrolled in a methadone treatment facility which is not the closest to their residence, and any patients identified by the department as potential duplicate admissions or barred admissions))~~. All such meetings shall be closed to the public to preserve confidentiality of patient records.

(3) ~~((Reporting requirements. All methadone treatment facilities shall report to the department the dose level of each patient, plus such other information as the department may reasonably require, in the form and manner prescribed by the department. Such reports shall be submitted in a timely and accurate manner.~~

~~((4))~~ (4) Identifying patients. All methadone treatment facilities shall establish written policies and procedures to reasonably verify the identity of patients. The policies and procedures shall respect the confidentiality of patient records as set forth in federal regulations (42 C.F.R., part 2, published July 1, 1975).

~~((5))~~ (4) Patient photographs. All methadone treatment facilities shall maintain in the dispensary a file of photographs of all patients. Photographs shall be updated whenever the client's physical appearance changes significantly or every two years, whichever comes first.

~~((b-(6)))~~ (5) Transfer patients. The initial dose of all transfer patients shall be the same as the last prescribed

dose at the previous facility. The facility may increase doses ~~((may be increased))~~ after the initial dose in the manner and under the conditions required elsewhere in these rules. ~~((Detailed))~~ An evaluation of dose adequacy is mandatory for all transfer patients requesting dose increases. If any transfer patient reporting an inadequate dose at the previous facility is determined to be stabilized at that same dose at the transfer facility, the facility shall report such case ~~((shall be))~~ immediately ~~((reported))~~ to the program director of the previous facility and to the department of social and health services.

~~((7))~~ (6) Transfer fees. Methadone treatment ~~((facilities may not levy unreasonable))~~ facility transfer fees on patients attempting to transfer to another facility ~~((Transfer fees may))~~ shall not exceed the actual cost of duplicating and ~~((forwarding))~~ mailing costs of requested records.

~~((8))~~ (7) Rate setting. The facility shall include all services (other than admission services) required by these standards ~~((shall be included))~~ in the basic daily, weekly, or monthly rate, including dispensing, urinalysis, and counseling. The facility may provide medical services unrelated to diagnosis and treatment of addiction, such as primary care and prenatal or postnatal care, ~~((may be provided))~~ at additional charge.

~~((9))~~ (8) Fees. The facility shall provide the patient ~~((shall be provided))~~ a complete schedule of fees and applicable fee policies prior to the initiation of any treatment services.

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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 275-19-185 ASSESSMENT PROCEDURES.

WAC 275-19-310 INTENSIVE INPATIENT TREATMENT FACILITIES—CLIENTS.

WAC 275-19-510 RECOVERY HOUSE FACILITIES—CLIENTS.

WSR 89-07-001

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2770—Filed March 2, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to food stamp assistance, amending chapter 388-49 WAC.

This action is taken pursuant to Notice Nos. WSR 89-03-071, 89-03-072, 89-03-073 and 89-03-074 filed with the code reviser on January 18, 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 March 1, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2685, filed 9/1/88)

WAC 388-49-015 GENERAL PROVISIONS. (1) The rules in this chapter are for the purpose of administering the food stamp program. Rules and definitions in other chapters of Title 388 of the Washington Administrative Code do not apply to provisions of this chapter unless specifically identified.

(2) The department of social and health services shall administer the food stamp program in accordance with an approved plan with the food and nutrition service (FNS) of the United States Department of Agriculture.

(3) The department shall comply with all FNS directives to reduce, suspend, or terminate all or any portion of the food stamp program.

(4) During a presidential or FNS-declared disaster, the department shall certify affected households in accordance with FNS instructions.

(5) The department shall retain:

(a) Food stamp case records for three years from the month of origin of each record((:)); and

(b) Fiscal and accountable documents for three years from the date of fiscal or administrative closure.

(6) The department shall not discriminate against any applicant or participant in any aspect of program administration for reason of:

- (a) Age,
- (b) Race,
- (c) Color,
- (d) Sex,
- (e) Handicap,
- (f) Religious creed,
- (g) Political beliefs, or
- (h) National origin.

(7) The department shall display nondiscrimination posters provided by FNS in all offices administering the food stamp program.

(8) An individual believing he or she has been subject to discrimination may file a written complaint with the:

- (a) Food and nutrition service((:)); or
- (b) State office for equal opportunity.

(9) The department shall restrict use or disclosure of information obtained from applying or participating households to:

(a) Individuals directly connected with the administration or enforcement of the provisions of:

- (i) The Food Stamp Act or regulations((:));
- (ii) Other federal assistance programs((:)); or

(iii) Federally assisted state programs providing assistance on a means-tested basis to low-income individuals.

(b) Individuals directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the Systematic Alien Verification for Entitlements (SAVE) program, to the extent the information is necessary to identify the individual for verification purposes;

(c) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

~~((+))~~ (d) Local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the:

(i) Identity of the individual requesting the information((:));

(ii) Authority of the individual to make the request((:));

(iii) Violation being investigated((:)); and

(iv) Identity of the person about whom the information is requested.

(10) The department shall use information obtained through the Systematic Alien Verification for Entitlements (SAVE) program only for the purposes of:

(a) Verifying the validity of documentation of alien status presented by an applicant;

(b) Verifying an individual's eligibility for benefits;

(c) Investigating whether participating households received benefits to which they were not entitled, if an individual was previously certified to receive benefits on the basis of eligible alien status; and

(d) Assisting in or conducting administrative disqualification hearings, or criminal or civil prosecutions based on receipt of food stamp benefits to which participating households were not entitled.

(11) The department shall make the household's case file available to the household or household's representative for inspection during regular office hours as provided in chapter 388-320 WAC.

~~((+))~~ (12) The department shall make the following program information available to the public upon request during regular office hours:

(a) Federal regulations, federal procedures in FNS notices and policy memos, and the state plan of operation at the state office; and

(b) Washington Administrative Code and the Food Stamp Procedures Manual at the local office.

~~((+2))~~ (13) The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any federal, state, or local laws.

~~((+3))~~ (14) The department shall not permit volunteers or other persons not employees of the department to conduct certification interviews or certify food stamp applicants except:

(a) During a presidential or FNS-declared disaster((:)); or

(b) Social Security Administration (SSA) employees for Supplemental Security Income (SSI) households as provided in WAC 388-49-040.

~~((14))~~ (15) The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedures," relative to counterfeiting, misuse, and alteration of obligations of the United States are applicable to food coupons.

AMENDATORY SECTION (Amending Order 2662, filed 8/2/88)

WAC 388-49-020 DEFINITIONS. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not an individual committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by department action or failure to act when the household properly and accurately reported all the household's circumstances to the department.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to conduct contested case hearings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult non-household member sufficiently aware of household circumstances designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means 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.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone under eighteen years of age and under parental control.

(14) "Collateral contact" means contact with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(17) "Destitute household" means a household with migrant or seasonal workers with little or no income at the time of application in need of immediate food assistance.

(18) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran with service-connected or nonservice-connected disability rated or paid as ((x)) total under Title 38 of the United States Code (USC), or considered in need of regular aid and attendance, or permanently housebound under such title;

(d) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the USC; ((or))

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

(f) Receives disability retirement benefits from a federal, state, or local government agency, because of a disability considered permanent under section 221(i) of the Social Security Act; or

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(19) "Documentary evidence" means written confirmation of a household's circumstances.

(20) "Documentation" means the process of recording the source, date, and content of verifying information.

(21) "Elderly person" means a person sixty years of age or older.

(22) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.

(23) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(24) "Equity value" means fair market value less encumbrances.

(25) "Expedited services" means quick provision of food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross income and liquid resources which are less than the household's current monthly rent or mortgage and actual utility costs; or

(d) Includes all members who are homeless individuals; or

(e) Includes destitute migrant or seasonal farm workers.

(26) "Fair hearing" means a hearing conducted by the office of administrative hearings at the client's request to decide whether action taken or intended action by the department is correct.

(27) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(28) "Food coupon" means food stamps and the two terms are interchangeable.

(29) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(30) "Food stamp monthly reporting cycle" means the budget month, the process month, and the payment month.

(31) "Gross income eligibility standards" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(32) "Group living arrangement" means a public or private nonprofit residential setting serving no more than sixteen residents certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(33) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(34) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(35) "Homeless food stamp household" means an eligible food stamp household having no fixed mailing address or not residing in a permanent dwelling.

(36) "Homeless meal provider" means a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by division of income assistance (DIA) and authorized by FNS.

(37) "Household" means the basic client unit in the food stamp program.

(38) "Household disaster" means when food purchased with food stamps are destroyed by a natural disaster, such as flood, fire, etc.

(39) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(40) "Inadvertent household error overissuance" means any overissuance caused by misunderstanding or unintended error on the part of the household.

(41) "Ineligible household member" means ((a)) the member ((who is)) excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work registration requirements;

(d) Status as an ineligible alien; ((or))

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizenship or alien status.

(42) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(43) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(44) "Intentional program violation," after August 8, 1983, means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended prior to August 8, 1983, consists of any action by an individual or individuals to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous non-food items;

(e) Use or possess improperly obtained coupons or authorization cards; and

(f) Trade or sell coupons or authorization cards.

(45) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(46) "Live-in attendant" means an individual residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(47) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

- (a) Income tax refunds,
- (b) Rebates,
- (c) Retroactive payments, and
- (d) Insurance settlements.

(48) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(49) "Migrant farmworker" means an individual working in seasonal agricultural employment and who is required to be absent overnight from his or her permanent place of residence.

(50) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(51) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as:

- (a) A roomer;
- (b) A live-in attendant; or
- (c) An individual who does not purchase and prepare meals with the food stamp household.

(52) "Nonstriker" means any person:

- (a) Exempt from work registration the day prior to the strike for reasons other than their employment;
- (b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;
- (c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or
- (d) Unable to work because workplace is closed by employer in order to resist demands of employees, e.g., a lockout.

(53) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(54) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(55) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(56) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(57) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(58) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(59) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(60) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(61) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(62) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(63) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(64) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(65) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(66) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(67) "Resident of an institution" means a person who resides in an institution that provides the individual with the majority of meals as part of the institution's normal service.

(68) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(69) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(70) "Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

(71) "Seasonal farmworker" means an individual working in seasonal agricultural employment who is not required to be absent from his or her permanent place of residence overnight.

(72) "Shelter costs" means:

- (a) Rent or mortgage payments plus taxes on a dwelling and property;
- (b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;
- (c) Assessments;
- (d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;
- (e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home including interest on such payments.

(73) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(74) "Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.

(75) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

(76) "Sponsored alien" means an alien lawfully admitted for permanent residence.

(77) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(78) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(79) "Student" means any person:

(a) Between eighteen and sixty years of age,

(b) Physically and mentally fit for employment, and

(c) Enrolled at least half time in an institution of higher education.

(80) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(81) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

~~((81))~~ (82) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an aid to families with dependent children (AFDC) grant as his or her own payee;

(b) Receiving gross income equal to, or exceeding, the AFDC grant payment standard; or

(c) Married.

~~((82))~~ (83) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

~~((83))~~ (84) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a

person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

~~((84))~~ (85) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-030 FILING AN APPLICATION.

(1) The department shall:

(a) Make application forms readily available, and

(b) Provide an application to any person requesting one.

(2) A person shall file an application by submitting the form to the CSO:

(a) In person,

(b) By mail, or

(c) Through an authorized representative.

(3) A household consisting of SSI members may file an application at the Social Security Administration district office (SSADO).

(4) A person has a right to file an application on the same day he or she contacts the department.

(5) The department shall accept an incomplete application filed by a responsible household member or authorized representative who:

(a) Completes the name and address, and

(b) Signs the application.

(6) The department shall require the following persons to sign the application attesting to their citizenship or alien status:

(a) Each adult household member;

(b) An adult household member for household members under eighteen years of age; and

(c) The applicant, in the absence of an adult household member, for all household members under eighteen years of age.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-110 VERIFICATION. (1) Sources of verification shall be:

(a) Documentary evidence~~((:))~~₂;

(b) Collateral contacts~~((:))~~₂; and

(c) Scheduled home visits.

(2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.

(3) At initial application, the department shall verify:

(a) Identity of:

(i) The person making the application~~((:))~~₂; or

(ii) The authorized representative and the head of household.

(b) Immigration status of all alien household members;

- (c) Residency(;;);
 ((~~c~~)) (d) Resources(;;);
 ((~~d~~)) (e) Loans(;;);
 ((~~e~~)) (f) Gross nonexempt income(;;);
 ((~~f~~)) (g) Shelter expenses if the expense could result in a deduction(;;);
 ((~~g~~)) (h) Utility expenses(;;);
 ((~~h~~)) (i) Medical care expenses(;;);
 ((~~i~~)) (j) Dependent care expenses(;;);
 ((~~j~~)) (k) Household size(;;);
 ((b-k)) (l) Household composition(;;); and
 ((~~k~~)) (m) Disability.

(4) At recertification, the department shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed.

(5) The department shall verify for monthly reporting households the following factors on a monthly basis:

- (a) Gross nonexempt income;
 (b) Utility expenses unless the standard utility allowance is used;
 (c) Medical expenses per WAC 388-49-500(4);
 (d) Alien status, Social Security number, residency, and citizenship if changed;
 (e) All other questionable information.
 (6) The department shall verify questionable information.

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 2662, filed 8/2/88)

WAC 388-49-190 HOUSEHOLD CONCEPT. (1) The department shall consider the following as households:

- (a) A person who lives alone;
 (b) A person who lives with others and who purchases and prepares meals separate and apart from the others;
 (c) A group of persons who live together and purchase and prepare meals together;
 (d) A permanently disabled and elderly person unable to prepare meals.
 (i) The person must be living with others.
 (ii) The person's spouse shall be included in the household.
 (iii) The income of the other household members, except the spouse, cannot exceed one hundred sixty-five percent of the poverty level.
 (e) A person who is the parent of a child under 18 years of age, along with that person's child and spouse, if the person and the person's child are:
 (i) Residing with the person's parent or sibling, and
 (ii) Purchasing and preparing meals separate from the parent or sibling.
 (f) A person who is a parent or sibling living with the person described in WAC 388-49-190 (1)(e) or (h);

(g) A person living with his or her natural, adoptive, or stepchildren, or such children living with parents when one parent is:

- (i) Elderly or disabled, and
 (ii) Purchasing and preparing meals separate from the child.
 (h) A person, living with a sibling, who is:
 (i) Elderly or disabled, and
 (ii) Purchasing and preparing meals separately.
 (2) The department shall not grant separate household status to:

- (a) Children under eighteen years of age under parental control of a member of the household;
 (b) Parents living with their natural, adoptive, or stepchildren, or such children living with parents unless they qualify as separate households per WAC 388-49-190 (1)(e), (f), or (g);

- (c) A spouse of a household member;
 (d) Siblings unless they qualify as separate households per WAC 388-49-190 (1)(e), (f), or (h);
 (e) A boarder.

(3) The department shall consider the following persons residing with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:

- (a) Roomers,
 (b) Live-in attendants, or
 (c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.

(4) The department shall consider the following persons residing with the household as ineligible household members:

- (a) Persons disqualified for intentional program violation;
 (b) Persons disqualified because of noncompliance with work registration requirements;
 (c) Persons who are ineligible aliens;
 (d) Persons disqualified for failure to apply for or provide a Social Security number; ((or))
 (e) Persons who are ineligible students; or
 (f) Persons who fail to sign the application attesting to their citizenship or alien status.

AMENDATORY SECTION (Amending Order 2666, filed 8/2/88)

WAC 388-49-310 CITIZENSHIP AND ALIEN STATUS. (1) The department shall require applicants to sign the application attesting to their citizenship or alien status as described under WAC 388-49-030(6).

(2) The department shall consider applicants who fail to meet the requirements of WAC 388-49-310(1) as ineligible household members under WAC 388-49-190(4), 388-49-420(5), and 388-49-480(2).

(3) Except for subsection ((2)) (4) of this section, the department shall require persons participating in the food stamp program ((shall)) to be residents of the United States and either:

- (a) A United States citizen; or
 (b) An alien lawfully admitted for permanent residence; or
 (c) An alien who:

(i) Entered the United States prior to January 1, 1972, or some later date as required by law; and

(ii) Has continuously maintained residency in the United States since then; and

(iii) Is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the attorney general pursuant to section 249 of the Immigration and Nationality Act.

(d) An alien who qualified for entry after March 17, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to sections 203 (a)(7), 207, and 208 of the Immigration and Nationality Act;

(e) An alien (~~(who qualifies)~~) qualified for conditional entry prior to March 18, 1980, pursuant to former section 203 (a)(7) of the Immigration and Nationality Act;

(f) An alien granted asylum through an exercise of discretion by the attorney general pursuant to section 208 of the Immigration and Nationality Act;

(g) An alien lawfully present in the United States as a result of:

(i) An exercise of discretion by the attorney general for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212 (d)(5) of the Immigration and Nationality Act; or

(ii) A grant of parole by the attorney general.

(h) An alien living within the United States for whom the attorney general has withheld deportation pursuant to section 243 of the Immigration and Nationality Act because of the judgment of the attorney general that the alien would otherwise be subject to persecution on account of race, religion, or political opinion;

(i) An alien having temporary resident status as a special agricultural worker under section 210 of the Immigration and Nationality Act.

~~((2))~~ (4) The department shall consider aliens legalized under section 245A of the Immigration and Nationality Act (~~(are)~~) ineligible for five years after attaining temporary resident status except for those who:

(a) Attain permanent resident status, and

(b) Receive Supplemental Security Income.

~~((3))~~ (5) The household shall provide verification when:

(a) Citizenship is questionable, or

(b) One or more of its members are aliens.

(i) The department shall not contact the immigration and naturalization service to obtain information without the alien's written consent.

(ii) The department shall give the household failing to provide verification the option of:

(A) Withdrawing the application, or

(B) Participating without the alien member.

~~((4))~~ (6) An applicant shall be ineligible until:

(a) Questionable citizenship is verified, or

(b) Lawful alien status is verified.

~~((5))~~ (7) The department shall accept a statement under a penalty of perjury signed by a United States citizen that the applicant is a United States citizen when:

(a) The applicant cannot produce acceptable citizenship verification; and

(b) The household can reasonably explain why the verification is not available.

~~((6))~~ (8) The department shall notify immigration and naturalization services when any household member is ineligible because that person is present in the United States in violation of the Immigration and Nationality Act.

~~((7))~~ (9) Lawfully admitted aliens who are ineligible include:

(a) Alien visitors,

(b) Tourists,

(c) Diplomats, or

(d) Students with temporary status.

AMENDATORY SECTION (Amending Order 2662, filed 8/2/88)

WAC 388-49-420 RESOURCES—NONEXEMPT. (1) The department shall consider the following resources nonexempt:

(a) Liquid resources;

(b) Real and personal property not exempted by WAC 388-49-410; and

(c) Money secured in the form of a lump sum.

(2) The value of a nonexempt resource, except for licensed vehicles as specified in WAC 388-49-430, shall be its equity value.

(3) Exempt funds having been commingled in an account with nonexempt funds for more than six months.

(4) The department shall consider resources owned jointly by separate households available in their entirety to each household, unless it can be verified the resource is inaccessible to one of the households.

(5) The department shall consider resources of the following persons as available to the remaining household members:

(a) Ineligible aliens (~~(and persons)~~); or

(b) Persons disqualified for failure to meet Social Security number requirements; or

(c) Persons disqualified for intentional program violation (~~(as available to the remaining household members)~~); or

(d) Persons who fail to sign the application attesting to their citizenship or alien status.

(6) The department shall consider resources, reduced by one thousand five hundred dollars, of an alien sponsor and spouse, if living together, available to the alien household for three years following the alien's admission to the United States for permanent residence.

AMENDATORY SECTION (Amending Order 2662, filed 8/2/88)

WAC 388-49-480 INCOME—INELIGIBLE HOUSEHOLD MEMBERS. (1) The department shall determine eligibility and benefit level for households containing (~~(a person)~~) persons disqualified for intentional program violation as follows:

(a) The entire income of the disqualified (~~(person)~~) persons shall be considered available to the remaining household members; and

(b) The entire household's allowable earned income, standard deduction, medical, dependent care, and excess

shelter deduction shall be considered in their entirety; and

(c) The household's coupon allotment shall not be increased as a result of the exclusion of one or more persons.

(2) The department shall determine eligibility and benefit level for households containing ~~((a person))~~ persons ineligible because of alien status ((or)), disqualification for refusal to obtain or provide a Social Security number, or failure to sign the application attesting to their citizenship or alien status as follows:

(a) A pro rata share of the income of the ineligible ~~((person))~~ persons shall be counted as income to the remaining household members;

(b) The twenty percent earned income deduction shall apply to the ineligible ~~((person's))~~ persons' earned income attributed to the household; and

(c) The portion of the household's allowable shelter and dependent care expense which is paid by or billed to the ineligible ~~((member))~~ members shall be divided evenly among all members of the household, providing the ineligible ~~((member has))~~ members have income.

(3) ~~((An))~~ The department shall not consider the income of ineligible students or persons disqualified for failure to meet work registration requirements as available to the household with whom they reside.

(4) The department shall exclude ineligible ~~((or disqualified person shall not be included))~~ household members when determining the household's size for purposes of:

(a) Assigning a benefit level; and

(b) Comparing the household's monthly income to the income eligibility standards.

~~((4) The department shall not consider the income of ineligible students or persons disqualified for failure to meet work registration requirements as available to the household with whom they reside:))~~

WSR 89-07-002
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 89-09—Filed March 2, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in-season run size estimates for winter run spring chinook indicate harvestable numbers are available. This regulation is adopted at the recommendation of the March 2, 1989, Columbia River Compact, and there is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 2, 1989.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-33-01000 COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE. *Notwithstanding the provisions of WACs 220-33-005, 220-33-010, 220-33-020, and 220-33-030:*

(1) *It is unlawful for a person to take or possess salmon, shad, and sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, and 1D to Kelly Point, except:*

Opened immediately until 6:00 p.m. March 6, 1989.

(2) *It is unlawful to fish for salmon, shad, and sturgeon with gill net gear, with a mesh size less than 8 inches.*

(3) *During the season provided for in subsection 1 of this section, the following sanctuaries are closed waters as defined in WAC 220-33-005:*

Grays Bay, Elokomin-A, Kalama-A, Lewis-A, Washougal, Gnat Creek, Sandy River and the Cowlitz defined as:

Cowlitz - those waters of the Columbia River and Carrolls Channel lying inside the center of the shipping channel between a fishing boundary marker at the junction of the Port of Longview docks and international paper docks on the Washington shore approximately one mile downstream from the Cowlitz River mouth and flashing green light "29A" on Cottonwood Island and also those waters of Carrolls Channel downstream of a line between a fishing boundary marker approximately 3000 feet upstream of the Cowlitz River mouth and a fishing boundary marker on Cottonwood Island.

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

[REPEALER]

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000 COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE (89-04)

Reviser's note: The bracketed material preceding the repealer above was supplied by the code reviser's office.

WSR 89-07-003
ADOPTED RULES
HYDRAULIC APPEALS BOARD
 [Order 1—Filed March 2, 1989]

Be it resolved by the Hydraulic Appeals Board, acting at the Environmental Hearings Office, Lacey, Washington, that it does adopt the annexed rules concerning administration, function, and organization of the Hydraulic Appeals Board, WAC 259-04-010 through 259-04-070.

This action is taken pursuant to Notice No. WSR 89-02-046 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 75.20.130 which directs that the Hydraulic Appeals Board has authority to implement the provisions of RCW 75.20.103, 75.20.130 and 75.20.140.

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 21, 1989.

By Christine Drivdahl
 Member

Chapter 259-04 WAC
**BOARD ADMINISTRATION—FUNCTIONS—
 ORGANIZATION**

WAC	
259-04-010	Membership—Function and jurisdiction of the hydraulic appeals board.
259-04-020	Board administration—Office of the board.
259-04-030	Board administration—Meeting of the board.
259-04-040	Board administration.
259-04-050	Board administration—Communications with the board.
259-04-060	Procedure applicable.
259-04-070	Authority.

NEW SECTION

WAC 259-04-010 MEMBERSHIP—FUNCTION AND JURISDICTION OF THE HYDRAULIC APPEALS BOARD. (1) The hydraulic appeals board (hereinafter board) shall consist of three members: The director of the department of ecology or designee, the director of the department of agriculture or designee, and the director or the director's designee of the department of fisheries or department of wildlife whose action or decision is under appeal.

(2) The function of this board is to provide an expeditious and efficient disposition of appeals from the decisions and orders of the department of fisheries or the department of wildlife with respect to hydraulic projects specified in RCW 75.20.103.

(3) The board shall have exclusive jurisdiction to hear and decide formal appeals from any person aggrieved by any final decision issued by the department of fisheries or department of wildlife with respect to any approval, denial, conditioning, or modification of any hydraulics project application or approval specified in RCW 75.20.103 or the denial of application for the modification of any approval issued pursuant to that section.

(4) This chapter is intended to be general and informational only, and failure herein to list matters over which the board has jurisdiction at law shall not constitute any waiver or withdrawal whatsoever from such jurisdiction as conferred upon this board by RCW 75.20.103 as currently written or as may be hereafter amended.

NEW SECTION

WAC 259-04-020 BOARD ADMINISTRATION—OFFICE OF THE BOARD. The headquarters and principal office of the board is the Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two, Rowe Six, Mail Stop PY-21, Lacey, Washington 98504, (206) 459-6327. All notices, pleadings, and other documents hereinafter required or allowed to be filed shall be filed at this address.

NEW SECTION

WAC 259-04-030 BOARD ADMINISTRATION—MEETING OF THE BOARD. The board shall have no formal meeting schedule but shall be convened as and when necessary to expeditiously adjudicate all disputes brought before it. The board may, in its discretion, utilize the services of the staff and facilities of the environmental hearings office as may be necessary to achieve that end.

NEW SECTION

WAC 259-04-040 BOARD ADMINISTRATION. At least two members of the three-member board shall agree upon any decisions, and may act although one position on the board may be absent. For promulgation of rules and regulations relating to its procedures, representatives of all four agencies may participate; a majority must agree on new or revised rules and may act although one position on the board is absent. A designated administrative law judge may hold hearings and take testimony when assigned by at least two members of the board to do so. The findings of the administrative law judge shall not become final until approved in writing by at least two members of the board.

NEW SECTION

WAC 259-04-050 BOARD ADMINISTRATION—COMMUNICATIONS WITH THE BOARD. All written communications by parties pertaining to a formal appeal, including requests for hearings on claimed violations of rules and regulations as provided in RCW 75.20.140, notices of appeal from orders and decisions of the relevant department approving, denying,

conditioning or modifying any hydraulics project application or approval specified in RCW 75.20.103, or the denial of any application for the modification of such approval issued pursuant to that section; and all other applications and requests for relief authorized by that section shall be filed with the board at its principal office in Lacey, Washington. Requests for hearings must be received within thirty days from the date of denial of a hydraulic project approval, issuance of an approval with contested conditions, or denial of application for modification of an approval. Copies of all such written communications shall be furnished to the relevant department or other appropriate agency and to all other interested parties or their representatives of record, and the original filed with the board shall show thereon compliance with this requirement.

NEW SECTION

WAC 259-04-060 PROCEDURE APPLICABLE. The board and all parties shall be guided by the uniform procedural rules established in chapter 1-08 WAC which are expressly adopted in their entirety by this reference.

NEW SECTION

WAC 259-04-070 AUTHORITY. These rules are promulgated pursuant to RCW 75.20.130 and are intended to administratively implement RCW 75.20.103, 75.20.130, and 75.20.140.

WSR 89-07-004
EMERGENCY RULES
DEPARTMENT OF LICENSING
[Order PM 824—Filed March 3, 1989]

I, Mary G. Faulk, director of the Department of Licensing, do promulgate and adopt at the Highways-Licenses Building, 4th Floor, Olympia, Washington 98504, the annexed rules relating to the amending of WAC 308-124A-025 and 308-124A-460.

I, Mary G. Faulk, 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 previous emergency filing is scheduled to expire on or about March 3, 1989, and these rules are necessary to continue the operation of the real estate section. The hearing for permanent adoption is scheduled for March 21, 1989, being delayed by a missed filing of a CR-1 due to snow.

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

This rule is promulgated pursuant to RCW 18.85.040 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 March 2, 1989.

By Mary G. Faulk
Director

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	((\$50.00)) \$60.00
Reexamination	((\$50.00)) 60.00
Walk-in for examination	15.00
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	((\$35.00)) \$60.00
Reexamination	((\$35.00)) 60.00
Walk-in for examination	15.00
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 89-07-005
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Practical Nursing)
[Order PM 823—Filed March 3, 1989]

Be it resolved by the Washington State Board of Practical Nursing, acting at the St. Placid Priory, 320 College Street N.E., Lacey, WA 98506, that it does adopt the annexed rules relating to:

- New WAC 308-117-460 Terms used in WAC 308-117-460 through 308-117-480.
- New WAC 308-117-470 Approval of substance abuse monitoring programs.
- New WAC 308-117-480 Participation in approved substance abuse monitoring program.

This action is taken pursuant to Notice No. WSR 89-02-065 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 18.78.050, [18.78.]054, 18.130.050 and [18.130.]175 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 16, 1989.

By Marie Christine Ivy
Chairperson

NEW SECTION

WAC 308-117-460 TERMS USED IN WAC 308-117-460 THROUGH 308-117-480. (1) "Approved substance abuse monitoring program" or "approved monitoring program" is a program the board has determined meets the requirements of the law and the criteria established by the board in WAC 308-117-470, which enters into a contract with practical nurses who have substance abuse problems regarding the required components of the practical nurse's recovery activity and oversees the practical nurse's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating practical nurses.

(2) "Contract" is a comprehensive, structured agreement between the recovering practical nurse and the approved monitoring program wherein the practical nurse consents to comply with the monitoring program and the required components of the practical nurse's recovery activity.

(3) "Approved treatment facility" is a facility approved by the bureau of alcohol and substance abuse, department of social and health services, under RCW 70.96A.020(2) or 69.54.030 to provide concentrated alcoholism or drug treatment if located within Washington state. Out-of-state drug and alcohol treatment programs must be equivalent to the standards required for approval under RCW 70.96A.020(2) or 69.54.030.

(4) "Substance abuse" means the impairment, as determined by the board, of a practical nurse's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(5) "Aftercare" is that period of time after intensive treatment that provides the practical nurse and the practical nurse's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment program staff.

(6) "Nurse support group" is a group of nurses meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced nurse facilitator in which nurses may discuss drug diversion, licensure issues, return to work and other professional issues related to recovery.

(7) "Twelve step groups" are groups such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, peer group association, and self-help.

(8) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person to be tested.

NEW SECTION

WAC 308-117-470 APPROVAL OF SUBSTANCE ABUSE MONITORING PROGRAMS. The board will approve the monitoring program(s) which will participate in the board's substance abuse monitoring program.

(1) The approved monitoring program will not provide evaluation or treatment to the participating practical nurses.

(2) The approved monitoring program staff must have the qualifications and knowledge of both substance abuse and the practice of practical nursing in order to evaluate:

- (a) Clinical laboratories;
- (b) Laboratory results;
- (c) Providers of substance abuse treatment, both individuals and facilities;
- (d) Nurses' support groups;
- (e) The practical nursing work environment; and
- (f) The ability of the practical nurse to practice with reasonable skill and safety.

(3) The approved monitoring program will enter into a contract with the practical nurse and the board to oversee the practical nurse's compliance with the requirements of the program.

(4) The approved monitoring program may make, on an individual basis, exceptions to components of the contract.

(5) The approved monitoring program staff will determine, on an individual basis, whether a practical nurse will be prohibited from engaging in the practice of practical nursing for a period of time and restrictions, if any, on the practical nurse's access to controlled substances in the work place.

(6) The approved monitoring program shall maintain records on participants.

(7) The approved monitoring program will be responsible for providing feedback to the practical nurse as to the acceptability of treatment progress.

(8) The approved monitoring program shall report to the board any practical nurse who fails to comply with the requirement of the monitoring program.

(9) The approved monitoring program shall provide the board with a statistical report on the program, including progress of participants, at least annually.

(10) The approved monitoring program shall receive from the board guidelines on treatment, monitoring, and limitations on the practice of practical nursing for those participating in the program.

NEW SECTION

WAC 308-117-480 PARTICIPATION IN APPROVED SUBSTANCE ABUSE MONITORING PROGRAM. (1) In lieu of disciplinary action, the practical nurse may accept board referral into the approved substance abuse monitoring program.

(a) The practical nurse shall undergo a complete physical and psychosocial evaluation before entering into the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The practical nurse shall enter into a contract with the board and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to, the following:

(i) The practical nurse will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The practical nurse will agree to remain free of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber as defined in RCW 69.41.030 and 69.50.101.

(iii) The practical nurse must complete the prescribed aftercare program of the approved treatment facility, which may include individual and/or group psychotherapy.

(iv) The practical nurse must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis and goals.

(v) The practical nurse will submit to random drug screening as specified by the approved monitoring program.

(vi) The practical nurse will attend nurses' support group(s) facilitated by a nurse and/or twelve step group meetings as specified by the contract.

(vii) The practical nurse will comply with specified employment conditions and restrictions as defined by the contract.

(viii) The practical nurse shall sign a waiver allowing the approved monitoring program to release information to the board if the practical nurse does not comply with the requirements of this contract.

(c) The practical nurse is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.

(d) The practical nurse may be subject to disciplinary action under RCW 18.130.160 if the practical nurse does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A practical nurse who is not being investigated by the board, not subject to current disciplinary action, or not currently being monitored by the board for substance abuse, may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the board if they meet the requirements of the approved monitoring program.

(a) The practical nurse shall undergo a complete physical and psychosocial evaluation before entering into the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The practical nurse shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to, the following:

(i) The practical nurse will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The practical nurse will agree to remain free of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber as defined in RCW 69.41.030 and 69.50.101.

(iii) The practical nurse must complete the prescribed aftercare program of the approved treatment facility, which may include individual and/or group psychotherapy.

(iv) The practical nurse must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis and goals.

(v) The practical nurse will submit to random drug screening as specified by the approved monitoring program.

(vi) The practical nurse will attend nurses' support group(s) facilitated by a nurse and/or twelve step group meetings as specified by the contract.

(vii) The practical nurse will comply with employment conditions and restrictions as defined by the contract.

(viii) The practical nurse shall sign a waiver allowing the approved monitoring program to release information to the board if the nurse does not comply with the requirements of this contract.

(c) The practical nurse is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment and random drug screens.

(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsections (1) and (2) of this section. Records held by the board under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

WSR 89-07-006

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1996—Filed March 3, 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 use of pesticides for groundwater protection chapter 16-228 WAC.

This action is taken pursuant to Notice Nos. WSR 89-01-110 and 89-06-006 filed with the code reviser on December 21, 1988, and February 17, 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 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 March 3, 1989.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-162 (~~(HIGH VOLATILE ESTER AND DUST FORMULATIONS PROHIBITED)~~) PHENOXY HERBICIDE RESTRICTIONS. (1) The distribution, use and application of all high volatile ester and dust formulations of phenoxy herbicides shall be prohibited throughout the state: PROVIDED, That this section shall not apply to dust or granular formulations packaged in shaker cans intended for home and garden use(~~(-PROVIDED FURTHER, That high volatile ester formulations of 2, 4-D may not be registered for home and garden use)~~).

(2) Pesticide dealers shall make available to the purchaser a copy of the rules pertaining to the use of dicamba and/or phenoxy hormone-type herbicides, including 2,4-D and MCPA, in the area in which the material will be applied.

NEW SECTION

WAC 16-228-164 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY. (1) Pesticides containing the following active ingredients are hereby declared state restricted use pesticides for the protection of groundwater and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator.

<u>Common Chemical Name</u>	<u>Also Known As*</u>
alachlor	Lasso
aldicarb	Temik
atrazine	
bromacil	Hyvar, Krovar
carbofuran	Furadan
cyanazine	Bladex
1,3-dichloropropene	Telone
disulfoton	Di-Syston
diuron	Karmex, Krovar
heptachlor	
hexazinone	Velpar
metolachlor	Dual
metribuzin	Lexone, Sencor
oxamyl	Vydate
picloram	Tordon
prometon	Pramitol
simazine	Princep
tebuthiuron	Spike

*This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Pesticides defined by the following categories are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives, and dealers shall keep records as defined in subsection (4) of this section, and shall furnish the records to the director as defined in subsection (7) of this section.

(a) Any EPA restricted use pesticide not listed in this rule.

(b) 2,4-D - all dry formulations and all liquid formulations distributed in packages of one gallon and larger to be used in counties located east of the crest of the Cascade Mountains. The following types of formulations are exempt from this requirement:

(i) Dry formulations labeled and intended for home and garden use only;

(ii) One gallon containers of liquid amine formulations packaged as ready-to-use products, labeled for consumer use; and

(iii) One gallon containers of liquid amine formulations containing fifteen percent or less of restricted use herbicides, labeled for consumer use.

(3) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses are exempt from the requirements of this section:

(a) Home and garden use;

(b) Pet products;

(c) Cooling tower, air conditioner, industrial systems and humidifier biocides;

(d) Use within wholly enclosed structures (with floors) or fumigation chambers. Greenhouses are not considered as wholly enclosed structures.

(4) Pesticide dealers shall keep records of distribution of state restricted use pesticides specified by common chemical name in subsection (1) of this section for a period of five years from the date of distribution, and shall keep records of distribution of the state restricted use pesticides specified in subsection (2) of this section for a period of one year from the date of distribution. The records shall contain the following information:

(a) Name and address of purchaser;

(b) Name and address of certified applicator (if different from (a) above);

(c) Name of authorized agent (if applicable);

(d) Brand and specific pesticide name and/or EPA registration number;

(e) Number of pounds or gallons of the pesticide distributed;

(f) Date of distribution;

(g) Certified applicator number.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides listed in subsections (1) and (2) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

(6) Certified applicators shall keep records of applications of state restricted use pesticides specified by common chemical name in subsection (1) of this section for a period of five years from the date of application, and the records shall contain the following information:

(a) Name and address of the certified applicator;

(b) Location of field or treatment site;

(c) Number of acres (or other appropriate area measurement);

(d) Crop or site (such as: roadside);

(e) Date of application;

(f) Number of pounds or gallons of formulation applied per acre (or equivalent measurement);

(g) Brand and specific name of pesticide applied;

(h) pounds per gallon or percent active ingredient.

(i) All certified applicators except private applicators are also required to keep any additional information required by RCW 17.21.100 and WAC 16-228-190.

(7) Records required by subsections (4) and (6) of this section shall be furnished to the director immediately upon request: PROVIDED, That the director may require the submission of application records of any restricted use pesticide within prescribed areas within fifteen days of use.

NEW SECTION

WAC 16-228-166 AQUATIC PESTICIDES. (1) All pesticide formulations labeled for application onto or

into water to control pests in or on water are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator.

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled only for the following uses shall be exempt from this section:

- (a) Swimming pools
- (b) Wholly impounded ornamental pools or fountains
- (c) Aquariums
- (d) Closed plumbing and sewage systems
- (e) Enclosed food processing systems
- (f) Air conditioners, humidifiers, and cooling towers
- (g) Industrial heat exchange, air washing, and similar industrial systems
- (h) Disinfectants
- (i) Aquatic environments in states other than Washington

(3) Distribution of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticides dealers to noncertified applicators, if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it is not to be applied into or onto water. If requested by the department, dealers shall furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records shall include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased.

(4) Licensed dealers shall keep records as specified in WAC 16-228-164(4) on each distribution of pesticides designated in subsection (1) of this section. The director shall have access to these records immediately upon request.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides designated in subsection (1) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-228-165 State restricted use pesticides for use by certified applicators only.

WSR 89-07-007

NOTICE OF PUBLIC MEETINGS CENTRAL WASHINGTON UNIVERSITY

[Memorandum—February 28, 1989]

The regular meeting of the Central Washington University board of trustees scheduled to be held March 17, 1989, is hereby cancelled.

There will be a special meeting of the Central Washington University board of trustees Thursday, March 16, 1989, 11:00 a.m., in the Board of Trustees Meeting Room, Bouillon 143, Central Washington University Campus, Ellensburg.

WSR 89-07-008

NOTICE OF PUBLIC MEETINGS SEATTLE COMMUNITY COLLEGES

[Memorandum—February 28, 1989]

The board of trustees of Seattle Community College District has changed the date of the regular scheduled meeting from March 7, 1989, to March 15, 1989. The meeting will begin at 6:00 p.m., at South Seattle Community College, 6000 16th Avenue S.W., Seattle, WA 98106.

The board of trustees will also be meeting on the following dates: Tuesday, March 14, 1989, 6:00 p.m., Executive Session, the Siegal Center, 1500 Harvard, Seattle, WA 98122; on-site campus visits as follows: Wednesday–Thursday, March 1 and 2, 1989, Linn–Benton Community College, Albany, Oregon, and Sunday–Tuesday, March 5, 6, and 7, 1989, Wayne County Community College, Detroit, Michigan.

WSR 89-07-009

NOTICE OF PUBLIC MEETINGS SEATTLE COMMUNITY COLLEGES

[Memorandum—March 1, 1989]

The board of trustees of Seattle Community College District has scheduled a special executive session for Friday, March 3, 1989, at 8:00 a.m. This meeting will be held in the Siegal Center, 1500 Harvard, Seattle, WA 98112.

WSR 89-07-010

COLUMBIA RIVER GORGE COMMISSION

[Filed March 3, 1989]

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.04 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

I hereby certify that the copy shown below is a true, full and correct copy of permanent rule(s) adopted on February 28, 1989, by the Columbia River Gorge Commission to become effective March 7, 1989.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action in Code Revisers Register: Yes.

Now therefore, it is hereby ordered that the following action be taken: Adopted 350-16-019 as administrative rules of the Columbia River Gorge Commission.

Dated this 1st day of March, 1989.

By: Richard P. Benner
Title: Executive Director

Statutory Authority: Chapter 499, Laws of 1987.

For Further Information Contact: Richard P. Benner, Executive Director, (509) 493-3323.

350-16-019. Authorization for Executive Director to Represent Commission

(1) The Commission authorizes the Executive Director, with the Attorney General's written consent, to appear and participate on behalf of the Commission in the following types of hearings:

(a) Appeal to the Commission of decisions of the Executive Director on a development review under 350-20-011 to 350-20-020;

(b) Hearings on the possible imposition of a civil penalty under 350-30-005 to 350-30-050;

(c) Hearings on a proposed revision of the boundary of an urban area under 16 USC 544b(f).

(2) Neither the Executive Director nor any other official or employee of the Commission may make legal argument on behalf of the Commission in a contested case proceeding.

(3) "Legal argument" as used in this rule includes argument on:

(a) The jurisdiction of the agency to hear the contest case:

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(c) The application of court precedent to the facts of the particular contested case proceeding.

(4) "Legal argument" as used in this rule does not include presentation of evidence, examination or cross-examination of witnesses, factual argument or argument on:

(a) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(b) Comparison of prior actions of the agency in handling similar situations;

(c) The literal meaning of the statute or rules directly applicable to the issues in the contested case; or

(d) The admissibility of evidence or the correctness of procedures being followed.

(5) This section applies to those appeals described in subsection (1) of this section filed after November 15, 1988 or pending before the Commission on that date.

Reviser's note: The spelling error in the above material appeared in the original copy of the Columbia River Gorge Commission and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 89-07-011
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 6, 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 effective date of eligibility, amending WAC 388-84-115;

that the agency will at 10:00 a.m., Tuesday, April 25, 1989, in 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 April 26, 1989.

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

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 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 April 11, 1989. The meeting site is in a location which is barrier free.

Dated: March 6, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-84-115.

Purpose: To clarify the effective date of retroactive eligibility for medical assistance.

Reason: To change the present regulations to provide for an effective date of eligibility no earlier than three months before the month of application.

Statutory Authority: RCW 74.08.090.

Summary: The effective date of eligibility for medical assistance shall be no earlier than the third month before the month of application.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Bobbe Andersen, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-0529.

Rules are proposed by DSHS.

These rules are not necessary as a result of a new state or federal law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-84-115 **EFFECTIVE DATE OF ELIGIBILITY.** (1) The effective date of eligibility for medical assistance shall be no ~~((later))~~ **earlier** than the third month before the month of application provided:

- (a) The medical services received were covered.
- (b) Individual would have been eligible had he/she applied.
- (c) ~~The applicant met all eligibility factors in either chapter 388-83 ((or)), 388-92, or 388-99 WAC.~~
- (2) ~~((Eligibility))~~ **The effective date of eligibility** for medical assistance is the first day of the month if the individual ~~((was))~~ **is** eligible at any time during that month.
- (3) ~~The month of application for medical assistance for SSI beneficiaries ((for purposes of determining eligibility for medical assistance)) shall be the month they apply for SSI.~~

WSR 89-07-012
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed March 6, 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 Payment—Extended care patient—Coinsurance, amending WAC 388-87-060;

that the agency will at 10:00 a.m., Tuesday, April 25, 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 April 26, 1989.

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

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 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 April 11, 1989. The meeting site is in a location which is barrier free.

Dated: March 6, 1989
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-87-060.

Purpose: To incorporate the Medicare Catastrophic Coverage Act changes in Medicare payments of coinsurance for entitled recipients in Medicare participating skilled nursing facilities.

Reason: A change in the law.

Statutory Authority: RCW 74.08.090.

Summary: Entitled Medicare recipients are eligible for 150 days of Medicare coverage for extended care in a Medicare participating skilled nursing facility. Coinsurance is paid according to WAC 388-87-011.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Bobbe Andersen, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-0529.

Rules are proposed by DSHS.

These rules are necessary as a result of a new federal law, Medicare Catastrophic Coverage Act of 1988.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 1112, filed 4/15/76)

WAC 388-87-060 **PAYMENT—EXTENDED CARE PATIENT—COINSURANCE.** ~~((The))~~ **Effective January 1, 1989, a recipient ((who is))** entitled to ~~((a maximum of 100 days of))~~ Medicare benefits ~~((in))~~ **may be eligible for up to one hundred fifty days of Medicare benefits in a calendar year for extended care in a participating Medicare skilled nursing facility ((for the same spell of illness shall pay from his available resources and income the coinsurance, beginning the 21st day of his extended care. When the recipient has insufficient resources and income, according to department standards, the department will pay)). See WAC 388-87-011 for payment of the coinsurance.**

WSR 89-07-013
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2771—Filed March 6, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Payment—Extended care patient—Coinsurance, amending WAC 388-87-060.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule is necessary to incorporate the Medicare Catastrophic Coverage Act changes in Medicare payments of coinsurance for entitled recipients in Medicare participating skilled nursing facilities according to the Medicare Catastrophic Coverage Act of 1988.

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

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

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

APPROVED AND ADOPTED March 6, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1112, filed 4/15/76)

~~WAC 388-87-060 PAYMENT—EXTENDED CARE PATIENT—COINSURANCE. ((The)) Effective January 1, 1989, a recipient ((who is)) entitled to ((a maximum of 100 days of)) Medicare benefits ((in)) may be eligible for up to one hundred fifty days of Medicare benefits in a calendar year for extended care in a participating Medicare skilled nursing facility ((for the same spell of illness shall pay from his available resources and income the coinsurance, beginning the 21st day of his extended care. When the recipient has insufficient resources and income, according to department standards, the department will pay)). See WAC 388-87-011 for payment of the coinsurance.~~

WSR 89-07-014

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
[Memorandum—March 3, 1989]

The Board of Natural Resources meeting regularly scheduled for April 4, 1989, has been rescheduled to be held Thursday, April 6, 1989, at 9:00 a.m. in the Main Conference Room, First Floor, General Administration Building, Olympia, Washington.

WSR 89-07-015

WITHDRAWAL OF PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed March 6, 1989]

The Liquor Control Board has decided to withdraw the proposed rule filed with your office on June 3, 1988, WSR 88-13-003.

There is legislation in the current session which will correct the problems we had experienced and were attempting to handle in rule making. Since the statutory changes would have far more effect than our rule as proposed, we would rather follow that course of action at this time.

Paula C. O'Connor
Chairman

WSR 89-07-016

NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
(International Development Committee)
[Memorandum—March 3, 1989]

There will be a meeting of the International Development Committee of the Washington State Convention and Trade Center on Wednesday, March 15, 1989, at noon. The location will be Room 601, Washington State Convention and Trade Center, 800 Convention Place, Seattle.

WSR 89-07-017

NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—February 27, 1989]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's School of Social Work—Curriculum Committee.

During the School of Social Work Curriculum Committee meeting of February 16, 1989, the committee made several changes in meeting times/dates: Thursday, March 2, 8:30 – 10:00 changes to Thursday, March 2, 8:00 – 9:30.

The meeting times from April through June 1989 have all been revised and are now scheduled thus:

Thursday	April 6	8:30 – 10:00
Thursday	April 20	8:30 – 10:00
Thursday	May 4	8:30 – 10:00
Thursday	May 18	8:30 – 10:00
Thursday	June 1	8:30 – 10:00

WSR 89-07-018

PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed March 7, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 25, 1989.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1989.

Dated: February 23, 1989

By: Joseph R. Blum
Director

STATEMENT OF PURPOSE

Title: WAC 220-56-116 Salmon—Barbless hooks; and 220-56-250 Lingcod—Areas and seasons.

Description of Purpose: Amend personal use rules.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: WAC 220-56-116, by removing the barbless hook requirement in Lake Washington, all fresh water areas have the same regulation. This reduces angler confusion; and WAC 220-56-250, changing the lingcod season opening date by one day brings lingcod openings into conformance with other seasonal openings, as virtually all openings occur on either the first or sixteenth day of the month. This will assist anglers who now have to contend with different opening and closing dates.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, WA, 753-5012; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington State Department of Fisheries.

Comments: No hearing has been scheduled. The subject matter of this proposal will be discussed during a general sport regulation hearing on February 25, 1989.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-56-116 SALMON—BARBLESS HOOKS. (1) Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.

(2) It is unlawful to use barbed hooks while angling((:

(a)) for salmon in all marine waters of Puget Sound, the Pacific Ocean, Grays Harbor, Willapa Bay, and waters at the mouth of the Columbia River westerly of a line drawn true north-south through Buoy 10.

((b) For salmon in Lake Washington north of the Evergreen Point Floating Bridge when using nonbuoyant lures (see WAC 220-56-105:))

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area (a) Salmon Punch Card Areas 1 through 3 - open the entire year, (b) Salmon Punch Card Area 4 - April ((+5)) 16 through November 30.

(2) Salmon Punch Card Areas 5, 6, and 7 - April ((+5)) 16 through November 30.

(3) Salmon Punch Card Areas 8 through 13 - April ((+5)) 16 through May 31.

WSR 89-07-019

PROPOSED RULES

DEPARTMENT OF FISHERIES

[Filed March 7, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning aquatic farm rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 25, 1989.

The authority under which these rules are proposed is RCW 75.08.080 and 75.58.040.

The specific statute these rules are intended to implement is RCW 75.58.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1989.

Dated: February 23, 1989

By: Judith Merchant
for Joseph R. Blum
Director

STATEMENT OF PURPOSE

Title: WAC 220-76-010 Aquatic farm registration required; and 220-76-020 Aquatic farm registration form—Required information.

Description of Purpose: Amend aquatic farm registration procedures.

Statutory Authority: RCW 75.08.080 and 75.58.040.

Summary of Rule and Reasons Supporting Proposed Action: WAC 220-76-010, gives time limit for granting aquatic farm registration. Allows department review of application for registration to insure proof of ownership or present right of possession accompanies application; and WAC 220-76-020, requires presentation of proof of ownership or present right of possession at time of application for registration.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation: Judith Freeman, 115 General Administration Building, Olympia, WA, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington State Department of Fisheries.

Comments: No hearing has been scheduled.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

AMENDATORY SECTION (Amending Order 86-102, filed 9/12/86)

WAC 220-76-010 AQUATIC FARM REGISTRATION REQUIRED. (1) It shall be unlawful for any person to cultivate aquatic products (private sector cultured aquatic products as defined under RCW 15.85.020(3)) without the aquatic farmer having first registered the aquatic farm with the department. Any aquatic farm must be registered with the department prior to the commencement of culture activities. The department shall grant registration to qualified persons

within seven days of the receipt of a complete aquatic farm registration form.

(2) Aquatic farm registrations are nontransferable. In the event there is a change of ownership of an aquatic fish farm established under chapter 220-76 WAC the aquatic farm registration issued to the previous owner shall be invalid.

(3) Registrations must be renewed annually, prior to December 31 for the succeeding calendar year. Reporting of aquaculture activity (WAC 220-69-243) during the previous calendar year shall constitute renewal for the following year.

AMENDATORY SECTION (Amending Order 86-102, filed 9/12/86)

WAC 220-76-020 AQUATIC FARM REGISTRATION FORM—REQUIRED INFORMATION. There is hereby created an aquatic farm registration form to be prepared, printed, and distributed on request by the department of fisheries. The following information shall be provided by the aquatic farmer.

(1) Company name/owner: Name of individual or company owning or leasing the aquatic farm, mailing address and telephone number.

(2) Contact person: Name and telephone number of the individual immediately responsible for operation of the aquatic farm.

(3) DSHS shellfish certification no.: Department of social and health services shellfish certification number where required by the department of social and health services.

(4) Species cultured: Common name of aquatic species cultured.

(5) Culture method: Method(s) of cultured used on aquatic farm.

(6) Legal description, street address, county and aquaculture district for freshwater or onshore aquatic farm, and the number of separate tracts or facilities within that district which comprise the aquatic farm.

(7) Name of bay or inlet, county and aquaculture district for marine aquatic farms.

(8) Signature: Signature of company official or owner.

(9) A site drawing of the aquatic farm and a brief narrative describing the facility and its operation. Freshwater farms should identify the source of culture water, where the water is discharged, and the watershed where the facility is located.

(10) Documentation of ownership or present right of possession of land comprising the aquatic farm is required to be submitted together with the aquatic farm registration form.

WSR 89-07-020

ADOPTED RULES

PARKS AND RECREATION COMMISSION

[Order 89-01—Filed March 7, 1989]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Tacoma, Washington, that it does adopt the annexed rules relating to:

- | | | |
|-----|--------------------|--|
| Amd | WAC 352-32-010(20) | Special recreation event defined. |
| New | WAC 352-32-047 | Special recreation event permit. |
| Amd | WAC 352-32-250(7) | Amendment to overnight camping fees at environmental learning centers. |
| Amd | WAC 352-32-250(14) | Unattended vehicle overnight parking permit. |

This action is taken pursuant to Notice No. WSR 89-03-067 filed with the code reviser on January 18, 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 Washington State Parks and Recreation Commission as authorized in RCW 43.51-.040 and 43.51.060.

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

APPROVED AND ADOPTED March 3, 1989.

By Dick Dixon
Chairman

AMENDATORY SECTION (Amending Order 102, filed 11/24/87)

WAC 352-32-010 DEFINITIONS. Whenever used in this chapter the following terms shall be defined as herein indicated:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission.

(3) "Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170, and shall include the park manager in charge of any state park area.

(4) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(5) "Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

(6) "Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal and flush comfort station. Each campsite includes a camp stove and picnic table.

(7) "Utility campsite" shall mean a standard campsite with the addition of one or all of the following utility hookups: Domestic water, sewer and electricity.

(8) "Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

(9) "Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

(10) "Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

(11) "Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

(12) "Emergency area" is an area in the park separate from the designated overnight camping area, which may be used for camping between the hours of 9 p.m. and 8 a.m. when no alternative camping facilities are available within reasonable driving distances.

(13) "State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public

lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 43.51.655 and as regulated under chapter 352-36 WAC.

(14) "Environmental learning centers (ELC)" shall mean those designated specialized facilities (formerly called resident group camps) designed to promote outdoor camping experiences and environmental education by groups in a residential setting. A group can be formalized group or an organized collection of families wishing to camp or use the ELC. ELCs are located at Camp Wooten, Columbia County; Brooks Memorial State Park, Klickitat County; Sun Lakes State Park, Grant County; Deception Pass State Park, Island and Skagit Counties; Fort Flagler State Park, Jefferson County; Millersylvania State Park, Thurston County; Moran State Park, San Juan County; Fields' Spring State Park, Asotin County; and Sequim Bay State Park, Clallam County.

(15) "Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

(16) "Camping unit" shall mean a group of people (one or more persons) that is organized, equipped and capable of sustaining its own camping activity.

(17) "Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

(a) Camping at a given park for more than twenty days within a thirty-day time period May 1 through September 30; or thirty days within a sixty-day time period October 1 through April 30. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping unit shall be limited to ten consecutive nights May 1 through September 30 and fifteen consecutive nights October 1 through April 30 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

(b) The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

(18) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

(19) "Upland" shall mean all lands lying above mean high water.

(20) "Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

NEW SECTION

WAC 352-32-047 SPECIAL RECREATION EVENT PERMIT. Any person or group, hereinafter referred to as the "applicant," desiring to make use of a portion of a state park for a special recreation event which will require special planning, facilities, staffing, or environmental protection measures, or the closure of the area to, or restriction of, established recreational uses, shall apply for a special recreation event permit. The director or designee may consult with the appropriate local government in reviewing the application and may issue a permit according to the criteria listed below. The permit may set forth certain conditions including but not limited to the closure of the specified area to other recreational activities, including motor vehicle traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such permit may result in the unreasonable exclusion of recreationists from the remainder of the park. All events authorized under this permit shall be open to public participation and/or observation at the option of the applicant.

In determining whether to issue the permit, the director or designee will review the proposal for consistency with the following criteria:

(1) The event is consistent with activities that are appropriate for a specific park classification;

(2) The event will not exceed nor damage facilities or resources or interfere with park operations;

(3) The event will not disrupt wildlife;

(4) Past experience has not shown that the applicant has failed to comply with laws or regulations or satisfactory conduct of a previous event;

(5) The event does not present a clear and present danger to the public health and safety;

(6) A prior applicant for another event for the same general time and place;

(7) The event will not unreasonably conflict with all park user's recreational pursuits;

(8) The event will conform with all of the applicable statutes, rules, policies, and procedures of the commission and instructions of the commission staff who supervise the event.

A special recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for the same event at the same park during a one-year period.

Persons or organizations that desire to conduct a special recreation event in a state park shall submit a permit application obtainable at any state park and the basic permit application fee of ten dollars to the park where the event is proposed to take place.

Such application shall be submitted at least thirty days in advance of the proposed date of the event, to allow, where applicable, for necessary internal review and analysis, consultation with local governments, public notice, establishment of permit conditions, and required agency preparations and coordination. The director or designee shall approve or disapprove a permit application and establish the conditions for an approved application. The director or designee shall determine the need for any fees necessary to cover costs incurred by the agency for additional staffing, equipment, facilities, or special services not normally provided by state parks, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated with the conduct of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided by the applicant prior to the issuance of the permit.

If additional unanticipated costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover such costs from the bond or damage deposits provided. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

WAC 352-32-250 STANDARD FEES CHARGED. The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

- (1) Overnight camping – standard campsite: \$7.00 per night;
- (2) Overnight camping – utility campsite: \$7.00 per night plus a nightly fee of \$.50 for domestic water hookup, \$.50 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not except when otherwise specified by a ranger;
- (3) Overnight camping – primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.50 per night for motorized vehicle;
- (4) Overnight camping – reservation fee: As specified in WAC 352-32-035;
- (5) Overnight camping – multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by

the number of individual campsites to be used in the designated multiple campsite.

(6) Group camping area – certain parks: \$.50 per person per night; nonrefundable reservation fee – \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center – overnight camping: (~~(\$3.15)~~) \$3.40 per camper per night: PROVIDED, HOWEVER, The fee shall be (~~(\$3.40)~~) \$3.65 per camper per night, effective (~~(September 8, 1987)~~) June 15, 1989;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: (~~(\$3.55)~~) \$3.80 per camper per night: PROVIDED, HOWEVER, The fee shall be (~~(\$3.80)~~) \$4.05 per camper per night, effective (~~(September 8, 1987)~~) June 15, 1989;

(b) Environmental learning center – day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group – whichever is higher;

(8) Hot showers: \$.25 for a minimum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks – not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle charge: \$3.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities – see WAC 352-12-020 and 352-12-030;

(13) Overnight camping – emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(14) Unattended vehicle overnight parking permit: Unoccupied vehicles parked overnight in designated areas must obtain a permit by registering and paying the \$3.00 per night permit fee. The permit must be prominently displayed in the vehicle.

WSR 89-07-021
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 89-10—Filed March 7, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in-season run size estimates for winter run spring chinook indicate harvestable numbers are available. This regulation is adopted at the recommendation of the March 7, 1989, Columbia River Compact, and there is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 7, 1989.

By Bette M. Johnson
for Joseph R. Blum
Director

NEW SECTION

WAC 220-33-01000E COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE. Notwithstanding the provisions of WAC's 220-33-005, 220-33-010, 220-33-020, and 220-33-030:

(1) It is unlawful for a person to take or possess salmon, shad, and sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, and 1D to Kelly Point, except:

6:00 p.m. March 7 until 6:00 p.m. March 9, 1989.

(2) It is unlawful to fish for salmon, shad, and sturgeon with gill net gear, with a mesh size less than 8 inches.

(3) During the season provided for in subsection 1 of this section, the following sanctuaries are closed waters as defined in WAC 220-33-005:

Grays Bay, Elokomín-A, Kalama-A, Lewis-A, Washougal, Gnat Creek, Sandy River and the Cowlitz defined as:

Cowlitz - those waters of the Columbia River and Carrolls Channel lying inside the center of the shipping channel between a fishing boundary marker at the junction of the Port of Longview docks and international paper docks on the Washington shore approximately one mile downstream from the Cowlitz River mouth and flashing green light "29A" on Cottonwood Island and also those waters of Carrolls Channel downstream of a line between a fishing boundary marker approximately 3000 feet upstream of the Cowlitz River mouth and a fishing boundary marker on Cottonwood Island.

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

[REPEALER]

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000D COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE (89-09)

Reviser's note: The bracketed material preceding the repealer above was supplied by the code reviser's office.

WSR 89-07-022

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order 88-57—Filed March 7, 1989]

I, Carol Jolly, assistant director of Water and Shorelands for the Department of Ecology, do promulgate and adopt at the Department of Ecology Headquarters, Lacey, Washington, the annexed rules relating to floodplain management, chapter 173-158 WAC:

Amd WAC 173-158-030 Definitions.

Amd WAC 173-158-060 Additional state requirements.

This action is taken pursuant to Notice No. WSR 89-01-109 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 86.16.061 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 March 7, 1989.

By Carol Jolly
Assistant Director

AMENDATORY SECTION (Amending Order 88-6, filed 5/4/88)

WAC 173-158-030 DEFINITIONS. For the purposes of this chapter the following definitions shall apply:

(1) "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "one hundred year flood."

(2) "Best available information" means in the absence of official flood insurance rate map data, communities can use data from other federal, state, or other sources provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

(3) (~~"Coastal high hazard area" means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. This area is designated on a FIRM as Zone V1-30, VE or V.~~)

((4)) "Critical facility" means a facility for which even a slight chance of flooding would be too great. Critical facilities include but are not limited to schools, hospitals, police, fire and emergency response installations, nursing homes, installations which produce, use, or store hazardous materials or hazardous waste.

((5)) (4) "Designated floodway" means the regulatory floodway which has been delineated on the flood insurance rate map (FIRM) or the flood boundary/floodway map (FBFM) of a community's flood insurance study and is included in the community's flood damage prevention ordinance.

((6)) (5) "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

((7)) (6) "Flood insurance rate map (FIRM)" means the official map on which the federal insurance administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

((8)) (7) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

((9)) (8) "Flood protection elevation" means one foot above the base flood elevation.

((10)) (9) "New construction" means structures for which the "start of construction" commenced on or after the effective date of the local ordinance.

((11)) (10) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

((12)) (11) "Special flood hazard area" means an area subject to a base or one hundred year flood; areas of special flood hazard are shown on a flood hazard boundary map or flood insurance rate map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, or V.

((13)) (12) "Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground. Manufactured homes are considered structures.

((14)) (13) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include

the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

((15)) (14) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(c) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(d) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

((16)) (15) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

~~((17)) "Water dependent" means a water dependent structure for commerce or industry is one which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.~~

((18)) (16) "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands have one or more of the following three attributes: (a) At least periodically, the land supports predominantly hydrophytes; (b) the substrate is predominantly undrained hydric soil; and (c) the substrate is nonsoils and is saturated with water or covered by shallow water at some time during the growing season of each year.

AMENDATORY SECTION (Amending Order 88-6, filed 5/4/88)

WAC 173-158-060 ADDITIONAL STATE REQUIREMENTS. The following state requirements are established in accordance with RCW 86.16.031(7):

(1) ~~(Coastal high hazard areas. Communities with designated coastal high hazard areas (V-zones) from Cape Disappointment to Cape Flattery along the Pacific Ocean shall:~~

~~(a) Prohibit new or substantially improved construction in the above designated V-zones; exceptions are for needed water dependent structures or structures that facilitate public recreational access to the shore. Structures which require siting in the V-zone should, to the extent possible, be required to be sited landward of the primary dune if an active dune system is associated with the V-zone.~~

~~(b) Prohibit any alteration of dunes in the above designated V-zones which could increase potential flood~~

~~damage, this restriction includes prohibiting any modification or alteration or disturbance of vegetative cover associated with dunes located in designated V-zones.~~

(2)) Critical facilities. Critical facilities should be afforded additional flood protection due to their nature. Communities therefore shall impose minimum standards which are in addition to those used for other types of development.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the one hundred year floodplain as identified on the community's FIRM. Construction of new critical facilities shall be permissible within the one hundred year frequency floodplain if no feasible alternative site is available. Critical facilities constructed within the one hundred year frequency floodplain shall have the lowest floor elevated to three or more feet above the level of the one hundred year frequency flood. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

Access routes elevated to or above the level of the one hundred year frequency flood shall be provided to all critical facilities to the extent possible.

((+)) (2) Flood protection elevation. In order to account for the impacts of future development on flood depths, and in order to ensure the least expensive insurance rates for floodplain occupants, all development within special flood hazard areas which requires elevation or floodproofing shall be elevated or flood proofed to or above the flood protection elevation (base flood elevation plus one foot).

WSR 89-07-023
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed March 8, 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:

Amd	ch. 248-27 WAC	Home health agency rules.
Amd	ch. 248-31 WAC	Hospice agency rules.
New	ch. 248-36 WAC	Home care agency rules;

that the agency will at 10:00 a.m., Tuesday, May 9, 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 May 10, 1989.

The authority under which these rules are proposed is RCW 70.126.040.

The specific statute these rules are intended to implement is RCW 70.126.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 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 April 25, 1989. The meeting site is in a location which is barrier free.

Dated: May [March] 9, 1989

By: Bill Griffith
for Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-27 WAC, Home health agency regulations.

Purpose of the Rules: To establish licensing standards for home health agencies in order to ensure safe and competent care for patients.

Reason Rules are Necessary: Chapter 70.127 RCW requires DSHS to adopt licensing standards related to administration, personnel requirements, quality assurance, and other health and safety issues specific to delivery of home health services.

Statutory Authority: Chapter 70.127 RCW.

Summary: Twelve sections of rule are repealed and replaced by nineteen new sections covering revised definitions specific to chapter 70.127 RCW. Requirements set forth pertain to: How licenses are obtained and revoked; fines and hearings; governing body and administration; patients rights, care and treatment; records; supervisory functions; parenteral services; and medical equipment and supplies.

Re: Amending chapter 248-31 WAC, Hospice agency regulations.

Purpose of the Rules: To establish licensing standards for hospice agencies in order to ensure safe and competent care for patients.

Reason Rules are Necessary: Chapter 70.127 RCW requires DSHS to adopt licensing standards related to administration, personnel requirements, quality assurance, and other health and safety issues specific to delivery of hospice services.

Statutory Authority: Chapter 70.127 RCW.

Summary: Nineteen sections of rule are repealed and replaced by eighteen new sections covering revised definitions specific to chapter 70.127 RCW. Requirements set forth pertain to: How licenses are obtained and revoked; fines and hearings; governing body and administration; patients rights, care and treatment; records; supervisory functions; parenteral services; and medical equipment and supplies.

Re: New chapter 248-36 WAC, Home care agency regulations.

Purpose of the Rules: To establish licensing standards for home care agencies in order to ensure safe and competent care for participants.

Reason Rules are Necessary: Chapter 70.127 RCW requires DSHS to adopt licensing standards related to administration, personnel requirements, quality assurance, and other health and safety issues specific to delivery of home care services.

Statutory Authority: Chapter 70.127 RCW.

Summary: Fifteen new sections are proposed covering definitions specific to chapter 70.127 RCW. Requirements set forth pertain to: How licenses are obtained and revoked; fines and hearings; governing body and administration; participants rights, care and treatment; records; and supervisory functions.

Person Responsible for Drafting and Implementation: Kenneth R. Lewis, Manager, Health Facilities Survey Section, ET-31, phone 753-5851.

The rules are proposed by DSHS.

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

Chapter 248-27 WAC
HOME HEALTH AGENCY ((REGULATIONS)) RULES

NEW SECTION

WAC 248-27-005 PURPOSE. The purpose of these rules is to administratively implement chapter 70.127 RCW by establishing minimum licensing standards for home health agencies related to safe and competent care for patients.

NEW SECTION

WAC 248-27-015 DEFINITIONS. For the purpose of chapter 70.127 RCW and chapter 248-27 WAC, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise.

- (1) "Acute care" means care provided by an agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status.
- (2) "Administrator" means a person managing and responsible for the day-to-day operation of each licensed agency.
- (3) "Advanced registered nurse practitioner" means a registered nurse with a ARNP recognition document under chapter 308-120 WAC.
- (4) "Agency" means a home health agency defined under this section and chapter 70.127 RCW.
- (5) "AIDS" means acquired immunodeficiency syndrome defined under WAC 248-100-011.
- (6) "Authorizing practitioner" means a person authorized to sign a home health plan of treatment including a physician licensed under chapter 18.57 or 18.71 RCW, a podiatrist licensed under chapter 18.22 RCW, or an advanced registered nurse practitioner as authorized by the board of nursing under chapter 18.88 RCW.
- (7) "Branch office" means a location or site from which an agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency, included in the license of the agency, and located sufficiently close to share administration, supervision, and services.
- (8) "Bylaws" means a set of rules adopted by an agency for governing the agency operation.
- (9) "Clinical note" means a written, signed, dated notation of each contact with a patient which may contain a description of signs and symptoms, treatments, medications given, the patient reaction, any changes in physical or emotional condition, and other pertinent information.
- (10) "Department" means the department of social and health services or successor state health department.
- (11) "Dietitian" means an individual certified under chapter 18.138 RCW, Dietitians and Nutritionists.

(12) "Family" means an individual or individuals who are important to and designated by the patient, and who may or may not be relatives.

(13) "Governing body" means the person, who may be the owner or a group, with responsibility and authority to establish policies related to operation of the agency.

(14) "HIV" means human immunodeficiency virus defined under RCW 70.24.017(7).

(15) "Home health agency" means a private or public agency or organization administering or providing home health aide services or two or more home health services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence.

(16) "Home health aid services" means an individual registered or certified under chapter 18.52B RCW.

(17) "Home health plan of care" or "plan of care" means a written plan of care established by a home health agency by appropriate health care professionals describing maintenance care to be provided. A patient or the patient's representative shall be allowed to participate in the development of the plan of care to the extent practicable.

(18) "Home health plan of treatment" or "plan of treatment" means a written plan of care established by a physician, a podiatrist, or an advanced registered nurse practitioner, in consultation with appropriate health care professionals within the agency describing medically necessary acute care to be provided for treatment of illness or injury.

(19) "Home health services" means health or medical services provided to ill, disabled, or infirm persons. Home health services of an acute or maintenance care nature include, but are not limited to:

- (a) Nursing services;
- (b) Home health aide services;
- (c) Physical therapy services;
- (d) Occupational therapy services;
- (e) Speech therapy services;
- (f) Respiratory therapy services;
- (g) Nutritional services;
- (h) Homemaker services;
- (i) Personal care services;
- (j) Medical social services; and
- (k) Medical supplies or equipment services.

(20) "Homemaker services" means services assisting ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management, including transportation, shopping, and maintenance of premises.

(21) "Ill, disabled, or infirm persons" means persons needing home health, hospice, or home care services in order to maintain themselves in their places of temporary or permanent residence.

(22) "Licensed practical nurse" means an individual licensed as a practical nurse under chapter 18.78 RCW, Practical Nurses.

(23) "Maintenance care" means care provided by home health agencies that is necessary to support an existing level of health and to preserve a patient from further failure or decline.

(24) "Managed care plan" means a plan controlled by the terms of the reimbursement source.

(25) "May" means permissive or discretionary on the part of the department.

(26) "Medical social worker" means an individual with a bachelor's degree in social work, psychology, or a related field and having completed one year of social work experience and registered as a counselor under RCW 18.19.090.

(27) "Nutritional services" means services provided by a dietitian or certified nutritionist under chapter 18.138 RCW.

(28) "Occupational therapist" means an individual licensed as an occupational therapist under chapter 18.59 RCW.

(29) "Owner" means the individual, partnership, or corporate entity legally responsible for the business requiring licensure as a home health agency under chapter 70.127 RCW.

(30) "Personal care services" means services assisting ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self-care.

(31) "Personnel" means individuals providing patient care on behalf of an agency including employees, individuals under contract, and volunteers.

(32) "Pharmacist" means an individual licensed as a pharmacist under RCW 18.64.080.

(33) "Physical therapist" means an individual licensed as a physical therapist under chapter 18.74 RCW.

(34) "Physician" means an individual currently licensed as a medical doctor under chapter 18.71 RCW or an osteopathic physician and

surgeon licensed under chapter 18.57 RCW, or a podiatrist licensed under chapter 18.22 RCW.

(35) "Prehire screening" means checking of references, appropriate registration, certification, licensure, and qualifications.

(36) "Registered nurse" means an individual licensed under chapter 18.88 RCW, Registered Nurses.

(37) "Respiratory therapist" means an individual certified under chapter 18.89 RCW, Respiratory Care Practitioners.

(38) "Shall" means compliance is mandatory.

(39) "Speech therapist" means a person meeting:

(a) The education and experience requirements for a certificate of clinical competence in the appropriate area of speech pathology or audiology, granted by the American Speech, Language, and Hearing Association as described in The ASLHA Directory, American Speech, Language, and Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852, 1983; or

(b) The education requirements for a certificate of clinical competence and in the process of accumulating the supervised experience, as specifically prescribed in The ASLHA Directory, 1983.

(40) "Supervision" means authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides initial direction and ongoing monitoring of the actual act of accomplishing the function or activity.

(41) "Therapist" means a physical therapist, occupational therapist, speech therapist, or respiratory therapist defined under this section or other therapist licensed or certified under Title 18 RCW and providing health or medical care or treatment within their defined scope of practice.

(42) "Therapy assistant" means a licensed occupational therapy assistant defined under chapter 18.59 RCW or physical therapist assistant defined under chapter 308-42 WAC.

(43) "Therapy services" means those services delivered by a therapist defined under this section.

(44) "Volunteer" means an individual providing assistance to the home health agency and:

(a) Oriented, trained, and supervised to perform specific assigned tasks; and

(b) Working without compensation.

(45) "Without compensation" means:

(a) A recipient of care is not charged a fee for any service delivered by the volunteer; and

(b) An individual delivering care receives no pay, except reimbursement for personal mileage incurred to deliver home health services.

NEW SECTION

WAC 248-27-025 LICENSURE OF THE HOME HEALTH AGENCY. (1) Persons operating home health agencies defined under chapter 70.127 RCW shall submit applications and fees to the department by July 1, 1989.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a home health agency without first obtaining an appropriate license from the department; or

(b) Use the words "home health agency," "home health care services," or "visiting nurse services" in its corporate or business name, or advertise using such words unless licensed as a home health agency under chapter 70.127 RCW.

(3) Applicants for a home health agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner;

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid under RCW 43.20B.110 and chapter 440-44 WAC, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

(d) Prohibit transfer or reassignment of a license without thirty-day-prior-notice to the department and department approval;

(e) Issue a license following approval of a new or current owner's application;

(f) Conduct on-site reviews of the agency, which may include in-home visits with consent of the patient, to determine compliance;

(g) Examine and audit records of the agency if the department has reason to believe persons are providing care without an appropriate license;

(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;

(i) Give written notice of any violations, including a statement of deficiencies observed;

(j) Inform the owner or applicant of the requirement to:

(i) Present a plan of correction to the department within ten days; and

(ii) Comply within a specified time not to exceed sixty days.

(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:

(i) The deficiency is an immediate threat to life, health, or safety; or

(ii) The owner fails to comply with any of the provisions under WAC 248-27-045 (3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.

(7) The department may:

(a) Issue a license effective for one year or less unless the license is suspended or revoked;

(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter;

(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW or this chapter. Actions to deny, suspend, modify, or revoke the license shall be consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:

(a) Full name and address of the current owner and prospective new owner;

(b) Name and address of the agency and new name under which the agency will be operating, if known; and

(c) The date of the proposed change of ownership.

(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.

(10) The agency shall inform the department, in writing, at the time of opening or closing the agency or branch offices included in the agency license.

NEW SECTION

WAC 248-27-035 LICENSE DENIALS—SUSPENSIONS—MODIFICATIONS—REVOCATIONS. (1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) Fails or refuses to comply with the provisions under chapter 70.127 RCW or this chapter;

(b) Continues to operate after the license is revoked or suspended for cause without subsequent reinstatement by the department;

(c) Makes a false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;

(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;

(e) Willfully prevents or interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;

(f) Willfully prevents or interferes with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 248-27-045, Civil Fines;

(h) Uses false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.

(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.

(3) The department shall inform the owner or applicant, in writing, of a denial, suspension, modification, or revocation of a license, and of the right to appeal, with such notice:

(a) Stating the reasons for the adverse action; and

(b) Personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt.

(4) Unless stated otherwise, the department shall consider a denial, suspension, modification, or revocation effective twenty-eight days after receipt.

(5) The department may make the date of action effective:

(a) Later than twenty-eight days after receipt if the department states the effective date in the written notice to the owner or applicant; and

(b) Sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare if the department states the effective date and the reasons supporting the effective date in the written notice.

NEW SECTION

WAC 248-27-045 CIVIL FINES. (1) Following an on-site review, in-home visit, or audit, the department shall give written notice either in person or by personal service or certified mail, return receipt requested, of any violation under chapter 70.127 RCW or this chapter. The notice shall inform the owner or applicant as appropriate including:

(a) Describing the conditions of noncompliance;

(b) Specifying a reasonable time of compliance not to exceed sixty days;

(c) Explaining the possibility of a violation subjecting the owner or applicant to denial, revocation, modification, or suspension of the license, and/or civil fines; and

(d) Explaining the right of the owner or applicant to appeal.

(2) The department may assess civil monetary penalties in addition to or in lieu of denial, suspension, modification, or revocation of a license if the owner fails to comply with a notice of violation.

(3) The department may assess civil monetary penalties not to exceed one thousand dollars per violation in any case where the department finds the owner, applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or owner's assets:

(a) Failed or refused to comply with requirements under chapter 70.127 RCW or this chapter;

(b) Continued to operate after the license was revoked or suspended for cause and not subsequently reinstated by the department;

(c) Has knowingly, or with reason to know, made a false statement of a material fact in the:

(i) Application for the license; or

(ii) Data attached; or

(iii) Record required under chapter 70.127 RCW; or

(iv) Matter under investigation by the department.

(d) Refused to allow representatives of the department to inspect any book, record, file, or part of the agency under this chapter;

(e) Willfully prevented, interfered with, or attempted to impede the work of any representative of the department and the lawful enforcement of a provision under chapter 70.127 RCW and this chapter;

(f) Willfully prevented or interfered with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Failed to pay or make arrangements to pay any civil monetary penalty assessed by the department under chapter 70.127 RCW within ten days after the assessment became final;

(h) Used false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresented or was fraudulent in any aspect of the conduct of the home health business.

(4) Failure to pay or make arrangements to pay civil monetary penalties within ten days from the time the assessment becomes final may result in denial, suspension, modification, or revocation of the license, in addition to either the assessment of the penalties or to the assessment of additional penalties.

(5) The department shall give written notice to the owner or applicant against whom the department assesses a civil fine, including the right to appeal. The written notice shall:

(a) State the reasons for the adverse action;

(b) Be personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt; and

(c) State the effective date of the civil fine action is:

(i) Twenty-eight days after receipt of the written notice; or

(ii) A later date at the discretion of the department.

NEW SECTION

WAC 248-27-055 APPEALS—HEARINGS. (1) An owner or applicant aggrieved by the department's denial, suspension, modification, or revocation of a license, or imposition of a civil penalty, may request a department hearing.

(2) Any owner or applicant requesting a department hearing shall make the request, in writing, and:

(a) State the issue and law upon which the appeal relies;

(b) State the grounds for contesting the denial, suspension, modification, or revocation of license or imposition of civil fines;

(c) State current address and telephone number;

(d) Attach to the request a copy of the department notice of denial, suspension, modification, or revocation of license or imposition of civil fine;

(e) Submit the request for hearing within twenty-eight days of the date of receipt of the department notice of denial, suspension, modification, or revocation of license or imposition of civil penalty; and

(f) Deliver the request by personal service or by certified mail to the Office of Appeals, 12th Avenue and Franklin Street, P.O. Box 2465, Olympia, Washington 98504-2465.

(3) The department shall:

(a) Treat a mailed request as effective on the date it was postmarked, if the mailed request is received by the office of appeals properly addressed and with no postage due;

(b) Conduct hearings under chapters 10-08 and 388-08 WAC and chapter 34.05 RCW, Administrative Procedure Act;

(c) Apply this section if any provision of this section conflicts with chapter 388-08 WAC; and

(d) Follow the decision-making procedure including:

(i) Initial decision;

(ii) Petition for review; and

(iii) Review decision procedure.

(4) When an owner or applicant files an appeal within the time limits specified under this section, department action to deny, suspend, modify, or revoke a license, or impose a civil fine shall proceed as follows:

(a) When the department gives an owner or applicant twenty-eight or more days' written notice and the owner or applicant files an appeal before the effective date on the written notice, the department:

(i) Shall delay implementing the adverse action until the order from the administrative hearing is served upon the owner or applicant; and

(ii) May implement part or all of the adverse action while the proceedings are pending if the:

(A) Presiding or reviewing officer permits the department to start such action; and

(B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.

(b) When the department gives an owner or applicant less than a twenty-eight-day written notice and the owner or applicant files an appeal, the department may:

- (i) Implement the adverse action on the effective date stated in the written notice; or
- (ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause.

NEW SECTION

WAC 248-27-065 GENERAL REQUIREMENTS. (1) The agency shall have a written plan of operation including:

- (a) An organizational chart showing ownership and lines for delegation of responsibility to the patient care level;
- (b) The services offered including hours of operation and service availability;
- (c) Admission discharge, referral, and transfer criteria;
- (d) Evidence of administrative and supervisory control and responsibility for all services including services provided by branch offices;
- (e) An annual budget approved by the governing body; and
- (f) Provisions for ongoing care in the event the agency ceases operation.

(2) The agency shall provide services consistent with an authorized plan of treatment or plan of care and:

- (a) Admit patients consistent with agency admission criteria, services provided, and capability of agency to provide the appropriate level of care; and
- (b) Inform the patient of alternate services, if available, if the agency is unable to meet identified needs of the patient.

(3) Agency personnel shall communicate in a language or form of communication the patient can reasonably be expected to understand. Whenever possible, the agency shall assist in obtaining:

- (a) Special devices;
- (b) Interpreters; or
- (c) Other aids to facilitate communication.

NEW SECTION

WAC 248-27-077 PATIENT BILL OF RIGHTS. Home health agencies shall provide each patient and family with a written bill of rights affirming each patient's rights to:

- (1) Be informed of aspects of his or her condition necessary to make decisions regarding his or her home health care;
- (2) Refuse treatment or services to the extent permitted by law and be informed of the potential consequences of such action;
- (3) Be informed of the services offered by the agency, including those services provided in his or her home;
- (4) Participate in development of plan of care and/or plan of treatment to the extent practical;
- (5) Be informed of any responsibilities he or she may have in the care process, including the requirement for medical supervision when required for the home health plan of treatment;
- (6) Be informed of the name of the person supervising the care and how to contact that person;
- (7) Be informed of the process for submitting and addressing complaints to both the agency and department;
- (8) Receive an explanation of the agency's charges and policy concerning billing and payment for services including, to the extent possible, insurance coverage and other methods for payment, unless services are reimbursed through a managed care plan;
- (9) Upon request, receive a fully itemized billing statement at least monthly including the date of each service and the charge, unless service is reimbursed through a managed care plan;
- (10) Access the department's directory of licensed agencies;
- (11) Upon request, be informed of who owns and controls the agency;
- (12) Personnel properly trained to perform assigned tasks;
- (13) Coordinated services;
- (14) Courteous and respectful treatment, privacy, and freedom from abuse and discrimination;
- (15) Confidential management of patient records and information;
- (16) Access information in the patient's own record upon request;
- (17) Be informed of the nature and purpose of care, as well as name and discipline of the person performing the care;
- (18) Be informed of any care provided by the agency which has experimental or research aspects with documentation of voluntary informed consent; and
- (19) Be informed of the reason for impending discharge, transfer to another agency and/or level of care, ongoing care requirements, and other available services and options if needed.

NEW SECTION

WAC 248-27-085 GOVERNING BODY—ADMINISTRATION. (1) The governing body of the agency shall establish a mechanism to:

- (a) Approve a quality assurance plan whereby problems are identified, monitored, and corrected;
 - (b) Approve written policies and procedures related to safe, adequate patient care, and operation of the agency;
 - (c) Assure an annual review of the agency by health professionals to evaluate the scope and quality of the services provided;
 - (d) Appoint an administrator and provide for an alternate in the administrator's absence;
 - (e) Adopt and periodically review written bylaws;
 - (f) Oversee the management and fiscal affairs of the agency; and
 - (g) Obtain regular reports on patient satisfaction.
- (2) Each agency shall have an administrator to:
- (a) Organize and direct the agency's ongoing functions;
 - (b) Arrange for professional services;
 - (c) Maintain ongoing liaison between the governing body and personnel;
 - (d) Employ qualified personnel and ensure adequate education and supervision of personnel;
 - (e) Ensure the accuracy of public information materials and activities;
 - (f) Implement a budget and accounting system;
 - (g) Ensure the presence of an alternate to act in the administrator's absence.

NEW SECTION

WAC 248-27-095 PERSONNEL. (1) The agency shall establish written personnel policies including, but not limited to:

- (a) Personnel qualifications commensurate with anticipated job responsibilities;
 - (b) Employment criteria without regard to sex, race, age, creed, handicap, national origin, or sexual orientation;
 - (c) Orientation and in-service training related to safe care, appropriate to each classification of personnel and the tasks he or she is expected to perform;
 - (d) Evidence of prehire screening; and
 - (e) Annual or more frequent performance evaluations including:
 - (i) Assessment of safe performance of job responsibilities; and
 - (ii) Conformance with agency policies and procedures.
- (2) The agency shall maintain records including:
- (a) Qualifications of personnel;
 - (b) Evidence of current licensure, certification, or registration when applicable to job requirements;
 - (c) Evidence of current cardiopulmonary resuscitation training at least every two years for all personnel providing services in the home, except volunteers and delivery personnel;
 - (d) Evidence of review of agency policy and procedures related to abuse and neglect of children and adults for all personnel providing services in the home consistent with chapters 26.44 and 74.34 RCW;
 - (e) Performance evaluations and evidence of pre-hire screening; and
 - (f) Health records including evidence of at least one tuberculin skin test by the Mantoux method at the time of employment unless medically contraindicated, and meeting specifications under subsection (3) of this section.
- (3) The agency shall ensure personnel expecting to have contact with patients have a tuberculin skin test by the Mantoux method prior to patient contact and meeting the following requirements:
- (a) When a skin test is negative, less than ten millimeters of induration read at forty-eight to seventy-two hours:
 - (i) Personnel under thirty-five years of age require no further testing; and
 - (ii) Personnel thirty-five years of age or over require a second test in one to three weeks.
 - (b) Positive reactors, reaction of ten millimeters or more of induration, shall have a chest x-ray within ninety days of the first day of employment. Exceptions and specific requirements are as follows:
 - (i) The home health agency shall maintain results of skin tests, report of x-ray findings, or exemptions to such in the agency; and
 - (ii) New personnel providing documentation of a significant Mantoux skin test reaction in the past are excluded from screening.
 - (c) New personnel currently and consistently employed by or volunteering in another agency or facility with similar required screening,

meeting the requirements under this subsection, may use the previous screening as documentation; and

(d) In the event of personnel exposure to an infectious case of tuberculosis, the agency shall supply the names and identifying information to the local health department sufficient for screening to occur.

(4) The agency shall assure observance of appropriate precautions when personnel show signs or report symptoms of communicable disease in an infectious stage.

(5) The agency shall assume responsibility for personnel providing agency services included in the plan of care or treatment.

NEW SECTION

WAC 248-27-105 AIDS EDUCATION AND TRAINING. Home health agencies shall:

(1) Provide or arrange for appropriate education and training of personnel on the prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and

(2) Use infection control standards and educational material consistent with the approved curriculum manual KNOW - AIDS EDUCATION FOR HEALTH CARE FACILITY EMPLOYEES, March 1, 1989, published by the department office on HIV/AIDS.

NEW SECTION

WAC 248-27-115 PATIENT CARE POLICIES AND PROCEDURES. (1) The agency shall:

(a) Establish and implement written policies and procedures appropriate to the services offered by the agency; and

(b) Make policies and procedures available to all personnel including:

- (i) Treatments and procedures used in providing patient services;
- (ii) Any special qualifications of persons performing the services;
- (iii) Infection control principles and practices;
- (iv) Emergency care, patient safety, and death;
- (v) Maintenance of supplies and equipment;
- (vi) Admission, transfer, and discharge of patients;
- (vii) Abuse and neglect consistent with chapters 26.44 and 74.34 RCW;

(viii) Coordination of services;

(ix) Clinical records; and

(x) Management and handling of patient-owned drugs consistent with applicable state laws.

(2) The agency shall provide patient family teaching:

- (a) Consistent with agency policies and procedures; and
- (b) Including demonstration, supervision, and evaluation.

NEW SECTION

WAC 248-27-125 SUPERVISION AND COORDINATION OF CLINICAL SERVICES. (1) The agency shall employ a supervisor of clinical services who:

- (a) Is a registered nurse if nursing services are provided;
- (b) May be a therapist if no nursing services are provided;
- (c) Is available, or can be replaced, by a similarly qualified person, during service hours;

(d) Participates in the development and revision of written patient care policies related to each service provided; and

(e) Is responsible for assignment and supervision of all patient care personnel.

(2) The agency shall designate a coordinator of clinical services who:

- (a) Coordinates interdisciplinary services and interagency services; and
- (b) Provides for continuity of care within disciplines.

NEW SECTION

WAC 248-27-135 HOME HEALTH PLAN OF TREATMENT. (1) The agency shall develop an individualized plan of treatment for patients receiving acute care services.

(2) The agency shall ensure:

(a) Patient care personnel follow a written plan of treatment approved and reviewed by an authorizing practitioner;

(b) Services other than assessment are provided only with the approval of an authorizing practitioner;

(c) The plan of treatment covers all pertinent diagnoses and current problems pertaining to the health of the patient with specific objectives and plans for implementation;

(d) Personnel consult with the authorizing practitioner to approve additions and modifications to the original plan of treatment in the event the patient was referred under an incomplete plan of treatment;

(e) Inclusion of specific services and modalities, with frequency and duration in the plan of treatment;

(f) Personnel and the authorizing practitioner review the total plan of treatment:

(i) Whenever changes in the patient's condition require a change in the plan; and

(ii) At least once every sixty days.

(g) The authorizing practitioner receives timely reports including:

(i) Any changes suggesting a need to alter the plan of treatment;

(ii) Suspected drug allergies; and

(iii) Adverse reactions to drugs.

(h) An authorizing practitioner orders drugs and treatments and:

(i) The drugs and treatments are administered by legally authorized agency personnel;

(ii) Orders are verified by a registered nurse, licensed practical nurse, therapist, or pharmacist;

(iii) Orders are recorded in a patient record as soon as possible; and

(iv) The authorizing practitioner countersigns the orders within a reasonable length of time.

NEW SECTION

WAC 248-27-145 HOME HEALTH PLAN OF CARE. The agency shall develop individualized plans of care:

(1) Current and reflective of a patient's present health status;

(2) Reviewed and revised at least every three months;

(3) Supervised by a registered nurse, licensed practical nurse, or appropriate therapist; and

(4) Containing specific objectives and plans for implementation.

NEW SECTION

WAC 248-27-155 FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF DIRECT CARE PERSONNEL. (1) Agencies shall describe functions, duties, and responsibilities of direct patient care personnel including:

(a) Initial and ongoing patient assessment, reassessment, and evaluation;

(b) Participation in development and revision of plan of treatment or care;

(c) Provision of appropriate services in accordance with agency policy and procedures;

(d) Participation in case conferences or other processes used to coordinate patient care;

(e) Teaching and counseling patients and family to meet patient needs identified in the plan of treatment or care;

(f) Preparation of clinical notes;

(g) Participation in discharge planning from home health care;

(h) Development of written directions for use by home health aide or appropriate therapy assistant; and

(i) Supervision and orientation of home health aide or appropriate therapy assistant to assure safe, therapeutic patient care.

(2) Agencies utilizing the services of licensed practical nurses shall follow agency policies, provide supervision by a registered nurse, and comply with chapter 18.78 RCW.

(3) The agency shall utilize the services of therapy assistants:

(a) Only as defined under WAC 248-27-015;

(b) Under supervision of an appropriately qualified therapist; and

(c) Following a plan of care compatible with the plan of treatment which is approved and supervised by the qualified therapist.

(4) Home health aide services, when utilized, shall:

(a) Be included in the plan of care or plan of treatment;

(b) Follow a specific written plan of care or treatment; and

(c) Be under the supervision of a registered nurse or therapist with:

(i) Orientation of the home health aide to the specific home health care of each patient prior to care given;

(ii) Evidence of an in-home supervisory visit at least once a month if the patient needs acute care and at least once every three months if the patient needs maintenance care; and

(iii) Direct observation of in-home performance of each home health aide at least every six months.

(5) The agency shall define the functions and duties of home health aides including the ability to:

(a) Observe and recognize changes in patient's condition and report changes to the supervisor;

- (b) Initiate emergency procedures under the agency policy;
- (c) Assist with medications ordinarily self-administered by the patient, with assistance limited to:
 - (i) Communication of appropriate information to the patient regarding self-administration including:
 - (A) Reminding a patient of when it is time to take a prescribed medication; and
 - (B) Reading the label of the medication container.
 - (ii) Handing a patient-owned medication container to the patient;
 - (iii) Opening the medication container; or
 - (iv) Application or installation of skin, nose, eye, and ear preparations only under specific direction of the supervisor.
- (d) Record pertinent information in the patient's clinical record.

NEW SECTION

WAC 248-27-165 CLINICAL RECORDS. (1) The agency shall maintain clinical records under agency policies and procedures. Records shall be:

- (a) Legibly written in ink suitable for photocopying;
- (b) On standardized agency forms;
- (c) Written in a legally acceptable manner;
- (d) In chronological order in entirety or by service;
- (e) Fastened together to avoid loss of pages;
- (f) Considered as property of the agency;
- (g) Available in one integrated document in one place, except:
 - (i) A copy may be kept in the home or in the agency office; and
 - (ii) More than one volume may be necessary.
- (h) Available and retrievable during operating hours either in the agency or by electronic means; and
 - (i) Stored following discharge from service:
 - (i) Preventing loss of information;
 - (ii) Protecting the record from damage due to water, mildew, or fire; and
 - (iii) Preventing access by unauthorized persons.
- (2) The agency shall include as contents of the clinical record:
 - (a) Patient-identifying information;
 - (b) Patient service/treatment consent and agreement;
 - (c) Pertinent past and current clinical findings including:
 - (i) Assessment of patient's physical and mental status as well as social and environmental problems affecting care; and
 - (ii) Clinical notes describing specific observations including, but not limited to, observations of patient condition.
 - (d) The home health plan of care and plan of treatment.
- (3) Agencies shall maintain, retain, and preserve records:
 - (a) For adults, a period of no less than five years following the date of termination of services; and
 - (b) For minors, a period of no less than three years following attainment of eighteen years of age, or five years following discharge, whichever is longer.
- (4) Agencies shall establish policies and procedures specific to retention and disposition of clinical records including:
 - (a) A method of disposal of clinical records or patient care data assuring prevention of retrieval and subsequent use of information; and
 - (b) A means to transmit a copy of the clinical record or an abstract and copy of most recent summary report with the patient in the event of patient transfer to another agency or health care facility. When patients are transferred without notification of the receiving agency, a copy of the abstract shall be forwarded upon notification and as soon as possible.
- (5) Agencies shall safeguard clinical record information and patient care data against loss or unauthorized use including:
 - (a) Adherence to written procedures governing use and removal of records and conditions for release of information; and
 - (b) Requirement for prior written consent of the patient for release of information unless authorized by law.
- (6) Agencies discontinuing operation shall:
 - (a) Notify the department prior to cessation of operation; and
 - (b) Obtain department approval of a plan to preserve or destroy clinical records prior to disposition.

NEW SECTION

WAC 248-27-175 PARENTERAL AND HYPERALIMENTATION SERVICES. (1) If the agency provides parenteral and/or hyperalimentation services, the agency shall define the scope of the services, in writing, with contracts specifying the responsibilities of the contractor and the contractee for:

- (a) Services;
- (b) Equipment; and
- (c) How reimbursement occurs.
- (2) If the agency provides parenteral services, the agency shall have written policies and procedures including:
 - (a) Preparation of parenteral solutions, medications, and mixing of previously dispensed parenteral drugs including:
 - (i) Use of aseptic technique when mixing previously dispensed parenteral drugs; and
 - (ii) If the circumstances require a registered nurse to mix two or more parenteral drugs or reconstitute drugs prior to administration, requirements for the registered nurse to place:
 - (A) An auxiliary label modifying existing label on the mixture with initials of the registered nurse; or
 - (B) A label prepared by a pharmacist on the container.
 - (b) Consultation available by a dietitian if hyperalimentation services are provided.
- (3) Agencies shall establish written policies and procedures for parenteral administration including:
 - (a) Administration of parenteral solutions, medications, admixtures, blood, and blood products;
 - (b) Infection control, including:
 - (i) Site preparation;
 - (ii) Tubing and dressing management;
 - (iii) Site assessment and rotation;
 - (iv) Use of aseptic technique; and
 - (v) Use of sterile equipment as indicated by the label.
 - (c) Use and control of parenterally administered investigational drugs;
 - (d) Administration of parenterally administered drugs causing tissue necrosis upon extravasation;
 - (e) Safe handling and disposal of biohazardous materials including cytotoxic agents and infectious materials;
 - (f) Documentation requirements;
 - (g) Patient and family teaching;
 - (h) Appropriate labeling of precision volume chambers, if used, so labeling accurately reflects each medication or solution administered via the precision volume chamber; and
 - (i) Use of electronic infusion control devices.
 - (4) The agency shall ensure:
 - (a) Personnel inserting parenteral devices are:
 - (i) Legally authorized to penetrate skin and insert intravenous devices; and
 - (ii) Appropriately trained with demonstrated and documented skills in intravenous insertion techniques.
 - (b) Personnel administering parenteral medications are:
 - (i) Legally authorized to administer medications;
 - (ii) Appropriately trained;
 - (iii) Able to demonstrate and provide evidence of documented skill in parenteral administration;
 - (iv) Knowledgeable of procedures and equipment; and
 - (v) Approved by the agency.
 - (c) Availability of drug compatibility reference material to individuals who administer parenteral medications;
 - (d) Parenteral solutions are administered only upon the order of a physician;
 - (e) All orders and prescriptions for parenteral solutions, medications, and mixtures of previously dispensed drugs include:
 - (i) Identification and quantity of solution or medication;
 - (ii) Route;
 - (iii) Rate of flow or frequency;
 - (iv) Duration of administration;
 - (v) Amount of additive;
 - (vi) Identification of patient; and
 - (vii) Identification of prescribing physician.
 - (5) The agency shall ensure documentation in the clinical record including:
 - (a) Solution, medication or medications, route, modifications, and/or additions made to parenteral products, time, date, amount administered, and rate;
 - (b) Site and site assessment;
 - (c) Date and time of insertion and removal of cannula, catheter, or needle;
 - (d) Device used, including gauge, length and type of needle, cannula, or catheter;
 - (e) Condition of cannula or catheter and site at the time removed from patient;

- (f) Use of electronic infusion devices;
 - (g) Observed complications and treatment of complications;
 - (h) Management of tubing and dressing; and
 - (i) Signature and discipline of the administering individual.
- (6) If parenteral preparations are administered to pediatric patients, the agency shall establish written policies for:
- (a) Amounts of parenteral fluid infants, children, and adolescents should receive determined by age, body surface area, and weight;
 - (b) Required use of rate control devices;
 - (c) Documentation requirements specified for parenteral therapy to include intake, output, weight, and height;
 - (d) The type of parenteral preparations which may be administered at home;
 - (e) Conditions requiring a registered nurse to be in attendance; and
 - (f) A plan for emergency services.
- (7) The agency shall ensure, if blood or blood products are administered in the patient's residence, there is:
- (a) A registered nurse or physician continuously in attendance;
 - (b) A plan for emergency services; and
 - (c) A method of delivery ensuring temperature stability, prevention of contamination, and viability.

NEW SECTION

WAC 248-27-185 **MEDICAL SUPPLIES OR EQUIPMENT SERVICES.** (1) An agency providing medical supplies or equipment services shall provide:

- (a) A written description of the scope of the services including:
 - (i) The types of supplies and/or equipment provided; and
 - (ii) Policies and procedures for cleaning, maintenance, calibration, or replacement of equipment.
- (b) Records of the services provided, date, time, and by whom; and
- (c) Documentation of approval of patient for service, cost, and method of payment.

(2) If provided, the agency shall maintain immediate availability of replacement supplies or equipment essential for the life or safety of the patient.

- (3) The agency shall provide knowledgeable, trained personnel to:
- (a) Initiate service;
 - (b) Maintain supplies and equipment; and
 - (c) Instruct patients or caregivers in the use and maintenance of supplies and equipment. Instructions shall be given:
 - (i) In writing;
 - (ii) Verbally; and
 - (iii) By demonstration and redemonstration as necessary.
- (4) The agency shall document the training and qualifications of personnel.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 248-27-001	PURPOSE.
WAC 248-27-002	DEFINITIONS.
WAC 248-27-010	CERTIFICATION OF THE HOME
HEALTH AGENCY.	
WAC 248-27-020	GENERAL REQUIREMENTS.
WAC 248-27-030	GOVERNING BODY—
ADMINISTRATION.	
WAC 248-27-040	PERSONNEL.
WAC 248-27-050	PROFESSIONAL ADVISORY GROUP.
WAC 248-27-060	QUALITY ASSURANCE—UTILIZATION
REVIEW—EVALUATION.	
WAC 248-27-070	PATIENT CARE POLICIES AND
PROCEDURES.	
WAC 248-27-080	SUPERVISION AND COORDINATION
OF CLINICAL SERVICES.	
WAC 248-27-090	ACCEPTANCE—MEDICAL SUPERVI-
SION—PLAN OF TREATMENT.	
WAC 248-27-100	NURSING AND THERAPY SERVICES—
FUNCTIONS.	
WAC 248-27-120	CLINICAL RECORDS.

Chapter 248-31 WAC
HOSPICE ((CARE)) AGENCY ((REGULATIONS)) RULES

NEW SECTION

WAC 248-31-005 **PURPOSE.** The purpose of these rules is to administratively implement chapter 70.127 RCW by establishing minimum licensing standards for hospice care agencies related to safe and competent care of patients and the well being of the patient unit.

NEW SECTION

WAC 248-31-015 **DEFINITIONS.** For the purpose of chapter 70.127 RCW and chapter 248-31 WAC, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise.

- (1) "Administrator" means a person managing and responsible for the day-to-day operation of each licensed agency.
- (2) "Agency" means a hospice agency defined under this section and chapter 70.127 RCW.
- (3) "AIDS" means acquired immunodeficiency syndrome defined under WAC 248-100-011.
- (4) "Branch office" means a location or site from which an agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency, included in the license of agency, and is located sufficiently close to share administration, supervision, and services.
- (5) "Bereavement care" means care provided to the family of a patient with the goal of alleviating the emotional and spiritual discomfort associated with the death of the patient.
- (6) "Bylaws" means a set of rules adopted by an agency for governing the agency operation.
- (7) "Clinical note" means a written, signed, dated notation of each contact with a patient which may contain a description of signs and symptoms, treatments, medications given, the patient reaction, any changes in physical or emotional condition, and other pertinent information.
- (8) "Department" means the department of social and health services or successor state health department.
- (9) "Dietitian" means an individual certified under chapter 18.138 RCW, Dietitians and Nutritionists.
- (10) "Family" means an individual or individuals who are important to and designated by the patient, and who may or may not be relatives.
- (11) "Governing body" means the person, who may be the owner or a group, with responsibility and authority to establish policies related to operation of the agency.
- (12) "HIV" means human immunodeficiency virus defined under RCW 70.24.017(7).
- (13) "Home health aide services" means services provided by an individual registered or certified under chapter 18.52B RCW.
- (14) "Homemaker services" means services assisting ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management, including transportation, shopping, and maintenance of premises.
- (15) "Hospice agency" means a private or public agency or organization administering or providing hospice care directly or through a contract arrangement to terminally ill persons in place of temporary or permanent residence by using an interdisciplinary team composed of at least nursing, social work, physician, and pastoral or spiritual counseling.
- (16) "Hospice care" means:
 - (a) Palliative care provided to a terminally ill person in a place of temporary or permanent residence with the goal of alleviating physical symptoms, including pain, the emotional and spiritual discomfort associated with dying; and
 - (b) Bereavement care; and
 - (c) May include health and medical services, personal care, respite care, or homemaker services.
- (17) "Hospice plan of care" means a written plan of care established by the interdisciplinary team and periodically reviewed by a physician describing hospice care to be provided to a terminally ill patient for palliation or medically necessary treatment of an illness or injury.
- (18) "Ill, disabled, or infirm persons" means persons who need home health, hospice, or home care service in order to maintain themselves in their places of temporary or permanent residence.
- (19) "Interdisciplinary team" means all disciplines involved in patient care minimally including a physician, nurse, medical social worker, and spiritual counselor.

(20) "Licensed practical nurse" means an individual licensed as a practical nurse under chapter 18.78 RCW, Practical Nurses.

(21) "Managed care plan" means a plan controlled by the terms of the reimbursement source.

(22) "May" means permissive or discretionary on the part of the department.

(23) "Medical social worker" means an individual with a bachelor's degree in social work, psychology, or a related field having completed one year of social work experience and registered as a counselor under RCW 18.19.090.

(24) "Occupational therapist" means an individual licensed as an occupational therapist under chapter 18.59 RCW.

(25) "Owner" means the individual, partnership, or corporate entity legally responsible for the business requiring licensure as a hospice agency under chapter 70.127 RCW.

(26) "Patient" means the terminally ill individual.

(27) "Patient unit" means the patient and family who together form the unit of care in hospice.

(28) "Personal care services" means services assisting ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self-care.

(29) "Personnel" means individuals providing patient care on behalf of an agency including employees, individuals under contract, and volunteers.

(30) "Pharmacist" means an individual licensed as a pharmacist under RCW 18.64.080.

(31) "Physical therapist" means an individual licensed as a physical therapist under chapter 18.74 RCW.

(32) "Physician" means an individual currently licensed as a medical doctor under chapter 18.71 RCW or an osteopathic physician and surgeon licensed under chapter 18.57 RCW.

(33) "Prehire screening" means checking of references, appropriate registration, licensure or certification, and qualifications.

(34) "Registered nurse" means an individual licensed under chapter 18.88 RCW, Registered Nurses.

(35) "Respite care services" means services assisting or supporting the primary caregiver on a scheduled basis.

(36) "Respiratory therapist" means an individual certified under chapter 18.89 RCW, Respiratory Care Practitioners.

(37) "Shall" means compliance is mandatory.

(38) "Speech therapist" means a person meeting:

(a) The education and experience requirements for a certificate of clinical competence in the appropriate area of speech pathology or audiology, granted by the American Speech, Language, and Hearing Association, as described in The ASLHA Directory, American Speech, Language and Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852, 1983; or

(b) The education requirements for a certificate of clinical competence and in the process of accumulating the supervised experience, as specifically prescribed in The ASLHA Directory, 1983.

(39) "Spiritual counseling services" means services coordinated by an individual with knowledge of theology, pastoral counseling, or an allied field, or an individual authorized by a spiritual organization to provide counseling services.

(40) "Supervision" means authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides initial direction and ongoing monitoring of the actual act of accomplishing the function or activity.

(41) "Therapist" means a physical therapist, occupational therapist, speech therapist, or respiratory therapist as defined in this section or other therapist licensed or certified under Title 18 RCW and providing health or medical care or treatment within their defined scope of practice.

(42) "Therapy assistant" means a licensed occupational therapy assistant defined under chapter 18.59 RCW or physical therapist assistant defined under chapter 308-42 WAC.

(43) "Therapy services" means those services delivered by therapists as defined in this section.

(44) "Volunteer" means an individual providing assistance to the hospice agency and:

(a) Oriented, trained, and supervised to perform specific assigned tasks; and

(b) Working without compensation.

(45) "Without compensation" means:

(a) A recipient of care is not charged a fee for any service delivered by the volunteer; and

(b) An individual delivering care receives no pay, except reimbursement for personal mileage incurred to deliver hospice services.

NEW SECTION

WAC 248-31-025 LICENSURE OF THE HOSPICE AGENCY. (1) Persons operating hospice agencies defined under chapter 70.127 RCW shall submit applications and fees to the department by July 1, 1989.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a hospice agency without first obtaining an appropriate license from the department; or

(b) Use the words "hospice agency" or "hospice care" in its corporate or business name, or advertise using such words unless licensed as a hospice agency under chapter 70.127 RCW.

(3) Applicants for a hospice agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner;

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide for a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid under RCW 43.20B.110 and chapter 440-44 WAC, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

(d) Prohibit transfer or reassignment of a license without thirty days prior notice to the department and department approval;

(e) Issue a license following approval of a new or current owner's application;

(f) Conduct on-site reviews of the agency, which may include in-home visits with the consent of the patient, to determine compliance;

(g) Examine and audit records of the agency if the department believes a person is providing care without an appropriate license;

(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;

(i) Give written notice of any violations, including a statement of deficiencies observed;

(j) Inform the owner or applicant of the requirement to:

(i) Present a plan of correction to the department within ten days; and

(ii) Comply within a specified time not to exceed sixty days.

(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:

(i) The deficiency is an immediate threat to life, health, or safety; or

(ii) The owner fails to comply with any of the provisions of WAC 248-31-045 (3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.

(7) The department may:

(a) Issue a license effective for one year or less unless the license is suspended or revoked;

(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter; and

(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW and this chapter. Actions to deny, suspend, modify, or revoke the license shall be consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:

(a) Full name and address of the current owner and prospective new owner;

(b) Name and address of the agency and new name under which the agency will be operating, if known; and

(c) The date of the proposed change of ownership.

(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.

(10) The agency shall inform the department, in writing, at the time of opening or closing the agency or branch offices included in the agency license.

NEW SECTION

WAC 248-31-035 LICENSE DENIALS—SUSPENSIONS—MODIFICATIONS—REVOCATIONS. (1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) Fails or refuses to comply with the provisions under chapter 70.127 RCW or this chapter;

(b) Continues to operate after the license is revoked or suspended for cause without subsequent reinstatement by the department;

(c) Makes a false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;

(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;

(e) Willfully prevents or interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;

(f) Willfully prevents or interferes with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 248-27-045, Civil Fines;

(h) Uses false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.

(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.

(3) The department shall inform the owner or applicant, in writing, of a denial, suspension, modification, or revocation of a license, and of the right to appeal, with such notice:

(a) Stating the reasons for the adverse action; and

(b) Personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt.

(4) Unless stated otherwise, the department shall consider a denial, suspension, modification, or revocation effective twenty-eight days after receipt.

(5) The department may make the date of action effective:

(a) Later than twenty-eight days after receipt if the department states the effective date in the written notice to the owner or applicant; and

(b) Sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare if the department states the effective date and the reasons supporting the effective date in the written notice.

NEW SECTION

WAC 248-31-045 CIVIL FINES. (1) Following an on-site review, in-home visit, or audit, the department shall give written notice

either in person or by personal service or certified mail, return receipt requested, of any violation under chapter 70.127 RCW or this chapter. The notice shall inform the owner or applicant as appropriate including:

(a) Describing the conditions of noncompliance;

(b) Specifying a reasonable time of compliance not to exceed sixty days;

(c) Explaining the possibility of a violation subjecting the owner or applicant to denial, revocation, modification, or suspension of the license, and/or civil fines; and

(d) Explaining the right of the owner or applicant to appeal.

(2) The department may assess civil monetary penalties in addition to or in lieu of denial, suspension, modification, or revocation of a license if the owner fails to comply with a notice of violation.

(3) The department may assess civil monetary penalties not to exceed one thousand dollars per violation in any case where the department finds the owner, applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or owner's assets:

(a) Failed or refused to comply with requirements under chapter 70.127 RCW or this chapter;

(b) Continued to operate after the license was revoked or suspended for cause and not subsequently reinstated by the department;

(c) Has knowingly, or with reason to know, made a false statement of a material fact in the:

(i) Application for the license; or

(ii) Data attached; or

(iii) Record required under chapter 70.127 RCW; or

(iv) Matter under investigation by the department.

(d) Refused to allow representatives of the department to inspect any book, record, file, or part of the agency under this chapter;

(e) Willfully prevented, interfered with, or attempted to impede the work of any representative of the department and the lawful enforcement of a provision under chapter 70.127 RCW and this chapter;

(f) Willfully prevented or interfered with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Failed to pay or make arrangements to pay any civil monetary penalty assessed by the department under chapter 70.127 RCW within ten days after the assessment became final;

(h) Used false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresented or was fraudulent in any aspect of the conduct of the agency business.

(4) Failure to pay or make arrangements to pay civil monetary penalties within ten days from the time the assessment becomes final may result in denial, suspension, modification, or revocation of the license, in addition to either the assessment of the penalties or to the assessment of additional penalties.

(5) The department shall give written notice to the owner or applicant against whom the department assesses a civil fine, including the right to appeal. The written notice shall:

(a) State the reasons for the adverse action;

(b) Be personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt; and

(c) State the effective date of the civil fine action is:

(i) Twenty-eight days after receipt of the written notice; or

(ii) A later date at the discretion of the department.

NEW SECTION

WAC 248-31-055 APPEALS—HEARINGS. (1) An owner or applicant aggrieved by the department's denial, suspension, modification, or revocation of a license, or imposition of a civil penalty, may request a department hearing.

(2) Any owner or applicant requesting a department hearing shall make the request, in writing, and:

(a) State the issue and law upon which the appeal relies;

(b) State the grounds for contesting the denial, suspension, modification, or revocation of license or imposition of civil fines;

(c) State the current address and telephone number;

(d) Attach to the request a copy of the department notice of denial, suspension, modification, or revocation of license or imposition of civil fine;

(e) Submit the request for hearing within twenty-eight days of the date of receipt of the department notice of denial, suspension, modification, or revocation of license or imposition of civil penalty; and

(f) Deliver the request by personal service or by certified mail to the Office of Appeals, 12th Avenue and Franklin Street, P.O. Box 2465, Olympia, Washington 98504-2465.

(3) The department shall:

(a) Treat a mailed request as effective on the date it was post-marked, if the mailed request is received by the office of appeals properly addressed and with no postage due;

(b) Conduct hearings under chapters 10-08 and 388-08 WAC and chapter 34.05 RCW, Administrative Procedure Act;

(c) Apply this section if any provision of this section conflicts with chapter 388-08 WAC; and

(d) Follow the decision-making procedure including:

(i) Initial decision;

(ii) Petition for review; and

(iii) Review decision procedure.

(4) When an owner or applicant files an appeal within the time limits specified under this section, department action to deny, suspend, modify, or revoke a license, or impose a civil fine shall proceed as follows:

(a) When the department gives an owner or applicant twenty-eight or more days' written notice and the owner or applicant files an appeal before the effective date on the written notice, the department:

(i) Shall delay implementing the adverse action until the order from the administrative hearing is served upon the owner or applicant; and

(ii) May implement part or all of the adverse action while the proceedings are pending if the:

(A) Presiding or reviewing officer permits the department to start such action; and

(B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.

(b) When the department gives an owner or applicant less than a twenty-eight-day written notice and the owner or applicant files an appeal, the department may:

(i) Implement the adverse action on the effective date stated in the written notice; or

(ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause.

NEW SECTION

WAC 248-31-065 GENERAL REQUIREMENTS. (1) The agency shall have a written plan of operation including:

(a) An organizational chart showing ownership and lines for delegation of responsibility to the patient care level;

(b) The services offered including hours of operation and service availability;

(c) Admission discharge, referral, and transfer criteria;

(d) Evidence of administrative and supervisory control and responsibility for all services including services provided by branch offices;

(e) An annual budget approved by the governing body; and

(f) Provisions for ongoing care in the event the agency ceases operation.

(2) Hospice agencies shall:

(a) Arrange for one or more physicians to:

(i) Provide medical direction;

(ii) Advise the agency on policies and procedures;

(iii) Serve as liaison with the patient's attending physicians;

(iv) Provide patient care and approve modifications of the hospice plan of care if the attending physician does not provide care or approve modifications in the plan; and

(v) Participate regularly in hospice care planning conferences with staff.

(b) Provide medical social services with at least one medical social worker available;

(c) Provide spiritual counseling services, either directly or in coordination with an individual of the patient's choice, if the patient or family desires;

(d) Provide nursing consultation and in-home visits as needed twenty-four hours per day, seven days per week, either directly or by arrangement with another agency;

(e) Provide or make available volunteer services to assist in provision of hospice care;

(f) Provide a bereavement care program, either directly or by arrangement for the family of patients, including:

(i) Referral of family members to other resources as needed;

(ii) Group and/or individual support opportunities as appropriate for bereavement care education and support;

(iii) Documented training and supervision of all personnel involved in bereavement care program; and

(iv) Follow-up available for at least one year, after death of the patient.

(g) Provide scheduled support for staff.

(3) The agency shall provide services consistent with an authorized plan of treatment or plan of care and:

(a) Accept the patient unit only if the agency is capable of providing or arranging for needed hospice care at the level of intensity required by the patient unit; and

(b) Inform the patient unit of alternate services, if available, if the agency is unable to meet identified needs of the patient.

(4) Agency personnel shall communicate in a language or form of communication the patient can reasonably be expected to understand. Whenever possible, the agency shall assist in obtaining:

(a) Special devices;

(b) Interpreters; or

(c) Other aids to facilitate communication.

NEW SECTION

WAC 248-31-077 PATIENT BILL OF RIGHTS. Hospice agencies shall provide each patient unit with a written bill of rights affirming each patient's rights to:

(1) Be informed of aspects of his or her condition necessary to make decisions regarding his or her care;

(2) Refuse treatment or services to the extent permitted by law and be informed of the potential consequences of such action;

(3) Be informed of the services offered by the agency, including those services provided in his or her home;

(4) Participate in development of the hospice plan of care;

(5) Be informed of any responsibilities the patient may have in the care process, including the requirement for medical supervision when required for the hospice plan of care;

(6) Be informed of the name of the person supervising the hospice care and how to contact that person;

(7) Be informed of the process for submitting and addressing complaints to both the agency and department;

(8) Receive an explanation of the agency's charges and policy concerning billing and payment for services including, to the extent possible, insurance coverage and other methods for payment, unless services are reimbursed through a managed care plan;

(9) Upon request, receive a fully itemized billing statement at least monthly including the date of each service and the charge, unless service is reimbursed through a managed care plan;

(10) Access the department's directory of licensed agencies;

(11) Upon request, be informed of who owns and controls the agency;

(12) Personnel properly trained to perform assigned tasks;

(13) Coordinated services;

(14) Courteous and respectful treatment, privacy, and freedom from abuse and discrimination;

(15) Confidential management of patient records and information;

(16) Access information in the patient's own record upon request;

(17) Be informed of the nature and purpose of care, as well as name and discipline of the person performing the care;

(18) Be informed of any care provided by the agency which has experimental or research aspects with documentation of voluntary informed consent; and

(19) Be informed of the reason for impending discharge, transfer to another agency and/or level of care, ongoing care requirements, and other available services and options if needed.

NEW SECTION

WAC 248-31-085 GOVERNING BODY—ADMINISTRATION. (1) The governing body of the agency shall establish a mechanism to:

(a) Approve a quality assurance plan whereby problems are identified, monitored, and corrected;

(b) Approve written policies and procedures related to safe, adequate patient care, and operation of the agency;

(c) Assure an annual review of the agency by health professionals to evaluate the scope and quality of the services provided;

(d) Appoint an administrator and provide for an alternate in the administrator's absence;

- (e) Adopt and periodically review written bylaws;
 - (f) Oversee the management and fiscal affairs of the agency; and
 - (g) Obtain regular reports on patient unit satisfaction.
- (2) Each agency shall have an administrator to:
- (a) Organize and direct the agency's ongoing functions;
 - (b) Arrange for professional services;
 - (c) Maintain ongoing liaison between the governing body and personnel;
 - (d) Employ qualified personnel and ensure adequate education and supervision of personnel;
 - (e) Ensure the accuracy of public information materials and activities;
 - (f) Implement a budget and accounting system;
 - (g) Ensure the presence of an alternate to act in the administrator's absence.

NEW SECTION

WAC 248-31-095 PERSONNEL. (1) The agency shall establish minimal written personnel policies including, but not limited to:

- (a) Personnel qualifications commensurate with anticipated job responsibilities;
 - (b) Employment criteria without regard to sex, race, age, creed, handicap, national origin, or sexual orientation;
 - (c) Orientation and in-service training related to safe care, appropriate to each classification of personnel and the tasks he or she is expected to perform;
 - (d) Evidence of prehire screening; and
 - (e) Annual or more frequent performance evaluations including:
 - (i) Assessment of safe performance of job responsibilities; and
 - (ii) Conformance with agency policies and procedures.
- (2) The agency shall maintain records including:
- (a) Qualifications of personnel;
 - (b) Evidence of current licensure, certification, or registration when applicable to job requirements;
 - (c) Evidence of review of agency policy and procedures related to abuse and neglect of children and adults for all personnel providing services in the home consistent with chapters 26.44 and 74.34 RCW;
 - (d) Performance evaluations and evidence of pre-hire screening; and
 - (e) Health records including evidence of at least one tuberculin skin test by the Mantoux method at the time of employment unless medically contraindicated, and meeting specifications under subsection (3) of this section.

(3) The agency shall ensure personnel expecting to have contact with patients have a tuberculin skin test by the Mantoux method prior to patient contact and meeting the following requirements:

- (a) When a skin test is negative, less than ten millimeters of induration read at forty-eight to seventy-two hours:
 - (i) Personnel under thirty-five years of age require no further testing; and
 - (ii) Personnel thirty-five years of age or over require a second test in one to three weeks.
- (b) Positive reactors, reaction of ten millimeters or more of induration, shall have a chest x-ray within ninety days of the first day of employment. Exceptions and specific requirements are as follows:
 - (i) The hospice agency shall maintain results of skin tests, report of x-ray findings, or exemptions to such in the agency; and
 - (ii) New personnel providing documentation of a significant Mantoux skin test reaction in the past are excluded from screening.

(c) New personnel currently and consistently employed by or volunteering in another agency or facility with similar required screening, meeting the requirements under this subsection, may use the previous screening as documentation; and

(d) In the event of personnel exposure to an infectious case of tuberculosis, the agency shall supply the names and identifying information to the local health department sufficient for screening to occur.

(4) The agency shall assure observance of appropriate precautions when personnel show signs or report symptoms of a communicable disease.

(5) The agency shall assume responsibility for personnel providing agency services included in the hospice plan of care.

NEW SECTION

WAC 248-31-105 AIDS EDUCATION AND TRAINING. Hospice agencies shall:

(1) Provide or arrange for appropriate education and training of personnel on the prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and

(2) Use infection control standards and educational material consistent with the approved curriculum manual KNOW - AIDS EDUCATION FOR HEALTH CARE FACILITY EMPLOYEES, March 1, 1989, published by the department office on HIV/AIDS.

NEW SECTION

WAC 248-31-115 PATIENT CARE POLICIES AND PROCEDURES. (1) The agency shall:

(a) Establish and implement written policies and procedures appropriate to the services offered by the agency; and

(b) Make policies and procedures available to all personnel including:

- (i) Treatments, procedures, and services carried out in providing patient unit care;
- (ii) Any special qualifications of persons performing the services;
- (iii) Infection control principles and practices;
- (iv) Emergency care, patient safety, and death;
- (v) Maintenance of supplies and equipment;
- (vi) Admission, transfer, and discharge of patients;
- (vii) Abuse and neglect consistent with chapters 26.44 and 74.34 RCW;

- (viii) Coordination of services;
 - (ix) Clinical records; and
 - (x) Management and handling of patient-owned drugs consistent with applicable state laws;
 - (xi) Spiritual counseling services;
 - (xii) Bereavement care counseling;
 - (xiii) Volunteer services; and
 - (xiv) Respite care services.
- (2) The agency shall provide patient unit teaching:
- (a) Consistent with agency policies and procedures; and
 - (b) Including demonstration, supervision, and evaluation.

NEW SECTION

WAC 248-31-125 SUPERVISION AND COORDINATION OF PATIENT CARE. The hospice agency shall employ a registered nurse to supervise and coordinate patient care services who:

- (1) Is available, or replaced by a similarly qualified person, at all times;
- (2) Participates in the development and revision of written patient care policies and procedures related to each service provided;
- (3) Is responsible for assignment and supervision of all personnel providing direct patient care services; and
- (4) Participates in coordination of interdisciplinary services and interagency services.

NEW SECTION

WAC 248-31-135 HOSPICE PLAN OF CARE. (1) The agency shall provide an individualized plan of care for every hospice patient unit which:

(a) Includes identification of current problems pertaining to the health of the patient with specific interventions and expected outcomes; and

(b) Is reviewed and revised in a case planning conference as necessary and every two weeks by three or more members of the interdisciplinary team including:

- (i) Registered nurse, social worker, and one other discipline; and
- (ii) Documented contact with all disciplines involved with hospice care of the patient unit.

(2) The agency shall ensure drugs and treatments are:

- (a) Ordered by a physician;
- (b) Administered by legally authorized agency personnel;
- (c) Verified by a registered nurse, licensed practical nurse, therapist, or pharmacist with:

(i) Recording of the order documented in the patient record as soon as possible; and

(ii) Countersignature by physician within a reasonable length of time.

(3) The agency shall ensure prompt reporting of suspected drug allergies, adverse reactions to drugs, or other problems related to patient use or drugs to the physician.

NEW SECTION

WAC 248-31-155 FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF DIRECT CARE PERSONNEL. (1) Agencies shall describe functions, duties, and responsibilities of personnel in direct contact with the patient unit including:

- (a) Initial and ongoing assessment and reassessment evaluation;
- (b) Participation in development and revision of the hospice plan of care;
- (c) Provision of appropriate services in accordance with agency policy and procedures;
- (d) Participation in case conferences or other processes used to coordinate patient care;
- (e) Teaching and counseling patient unit to meet needs identified in the hospice plan of care;
- (f) Preparation of clinical notes;
- (g) Development of written directions for use by home health aide or appropriate therapy assistant; and
- (h) Supervision and orientation of home health aide, appropriate therapy assistant, and others to assure safe, therapeutic patient care.

(2) Agencies utilizing the services of licensed practical nurses shall follow agency policies, provide supervision by a registered nurse, and comply with chapter 18.78 RCW.

- (3) The agency shall utilize the services of therapy assistants:
 - (a) Only as defined under WAC 248-31-015;
 - (b) Under supervision of an appropriately qualified therapist; and
 - (c) Following a plan of care which is approved by the qualified therapist.
- (4) Home health aide services, when utilized, shall:
 - (a) Be included in the hospice plan of care;
 - (b) Follow a specific written plan of care; and
 - (c) Be under the supervision of the agency and a registered nurse, or therapist with:
 - (i) Orientation of the home health aide to the specific hospice care of each patient prior to care given;
 - (ii) Evidence of an in-home supervisory visit at least every two weeks; and
 - (iii) Direct supervisory observation of each home health aide during care at least one time every two months.
- (5) The agency shall define the functions and duties of home health aides including the ability to:
 - (a) Observe and recognize changes in patient's condition and report changes to the supervisor;
 - (b) Initiate emergency procedures under the agency policy;
 - (c) Assist with medications ordinarily self-administered by the patient, with assistance limited to:
 - (i) Communication of appropriate information to the patient regarding self-administration including:
 - (A) Reminding a patient of when it is time to take a prescribed medication; and
 - (B) Reading the label of the medication container.
 - (ii) Handing a patient-owned medication container to the patient;
 - (iii) Opening the medication container; or
 - (iv) Application or installation of skin, nose, eye, and ear preparations only under specific direction of the supervisor.
 - (d) Record pertinent information in the patient's clinical record.

NEW SECTION

WAC 248-31-165 CLINICAL RECORDS. (1) The agency shall maintain clinical records under agency policies and procedures. Records shall be:

- (a) Legibly written in ink suitable for photocopying;
- (b) On standardized agency forms;
- (c) Written in a legally acceptable manner;
- (d) In chronological order in entirety or by service;
- (e) Fastened together to avoid loss of pages;
- (f) Considered as property of the agency;
- (g) Available in one integrated document in one place, except:
 - (i) A copy may be kept in the home or in the agency office; and
 - (ii) More than one volume may be necessary.
- (h) Available and retrievable during operating hours either in the agency or by electronic means; and
 - (i) Stored following discharge from service;
 - (ii) Preventing loss of information;
 - (iii) Protecting the record from damage due to water, mildew, or fire; and
 - (iv) Preventing access by unauthorized persons.

- (2) The agency shall include as contents of the clinical record:
 - (a) Patient-identifying information;
 - (b) Patient service/treatment consent and agreement;
 - (c) Pertinent past and current clinical findings including:
 - (i) Assessment of patient's physical and mental status as well as social and environmental problems affecting care; and
 - (ii) Clinical notes describing specific observations including, but not limited to, observations of patient condition.
 - (d) The hospice plan of care; and
 - (e) Physician orders.
- (3) Agencies shall maintain, retain, and preserve records:
 - (a) For adults, a period of no less than five years following the date of termination of services; and
 - (b) For minors, a period of no less than three years following attainment of eighteen years of age, or five years following discharge, whichever is longer.
- (4) Agencies shall establish policies and procedures specific to retention and disposition of clinical records including:
 - (a) A method of disposal of clinical records or patient care data assuring prevention of retrieval and subsequent use of information; and
 - (b) A means to transmit a copy of the clinical record or an abstract and copy of most recent summary report with the patient in the event of patient transfer to another agency or health care facility. When patients are transferred without notification of the receiving agency, a copy of the abstract shall be forwarded upon notification and as soon as possible.
- (5) Agencies shall safeguard clinical record information and patient care data against loss or unauthorized use including:
 - (a) Adherence to written procedures governing use and removal of records and conditions for release of information; and
 - (b) Requirement for prior written consent of the patient for release of information unless authorized by law.
- (6) Agencies discontinuing operation shall:
 - (a) Notify the department prior to cessation of operation; and
 - (b) Obtain department approval of a plan to preserve or destroy clinical records prior to disposition.

NEW SECTION

WAC 248-31-175 PARENTERAL AND HYPERALIMENTATION SERVICES. (1) If the agency provides parenteral and/or hyperalimentation services, the agency shall define the scope of the services, in writing, with contracts specifying the responsibilities of the contractor and the contractee for:

- (a) Services;
 - (b) Equipment; and
 - (c) How reimbursement occurs.
- (2) If the agency provides parenteral services, the agency shall have written policies and procedures including:
- (a) Preparation of parenteral solutions, medications, and mixing of previously dispensed parenteral drugs including:
 - (i) Use of aseptic technique when mixing previously dispensed parenteral drugs; and
 - (ii) If the circumstances require a registered nurse to mix two or more parenteral drugs or reconstitute drugs prior to administration, requirements for the registered nurse to place:
 - (A) An auxiliary label modifying existing label on the mixture with initials of the registered nurse; or
 - (B) A label prepared by a pharmacist on the container.
 - (b) Consultation available by a dietitian if hyperalimentation services are provided.
- (3) Agencies shall establish written policies and procedures for parenteral administration including:
- (a) Administration of parenteral solutions, medications, admixtures, blood, and blood products;
 - (b) Infection control, including:
 - (i) Site preparation;
 - (ii) Tubing and dressing management;
 - (iii) Site assessment and rotation;
 - (iv) Use of aseptic technique; and
 - (v) Use of sterile equipment as indicated by the label.
 - (c) Use and control of parenterally administered investigational drugs;
 - (d) Administration of parenterally administered drugs causing tissue necrosis upon extravasation;
 - (e) Safe handling and disposal of biohazardous materials including cytotoxic agents and infectious materials;
 - (f) Documentation requirements;

- (g) Patient and family teaching;
- (h) Appropriate labeling of precision volume chambers, if used, so labeling accurately reflects each medication or solution administered via the precision volume chamber; and
 - (i) Use of electronic infusion control devices.
- (4) The agency shall ensure:
 - (a) Personnel inserting parenteral devices are:
 - (i) Legally authorized to penetrate skin and insert intravenous devices; and
 - (ii) Appropriately trained with demonstrated and documented skills in intravenous insertion techniques.
 - (b) Personnel administering parenteral medications are:
 - (i) Legally authorized to administer medications;
 - (ii) Appropriately trained;
 - (iii) Able to demonstrate and provide evidence of documented skill in parenteral administration;
 - (iv) Knowledgeable of procedures and equipment; and
 - (v) Approved by the agency.
 - (c) Availability of drug compatibility reference material to individuals who administer parenteral medications;
 - (d) Parenteral solutions are administered only upon the order of a physician; and
 - (e) All orders and prescriptions for parenteral solutions, medications, and mixtures of previously dispensed drugs include:
 - (i) Identification and quantity of solution or medication;
 - (ii) Route;
 - (iii) Rate of flow or frequency;
 - (iv) Duration of administration;
 - (v) Amount of additive;
 - (vi) Identification of patient; and
 - (vii) Identification of prescribing physician.
- (5) The agency shall ensure documentation in the clinical record including:
 - (a) Solution, medication or medications, route, modifications, and/or additions made to parenteral products, time, date, amount administered, and rate;
 - (b) Site and site assessment;
 - (c) Date and time of insertion and removal of cannula, catheter, or needle;
 - (d) Device used, including gauge, length and type of needle, cannula, or catheter;
 - (e) Condition of cannula or catheter and site at the time removed from patient;
 - (f) Use of electronic infusion devices;
 - (g) Observed complications and treatment of complications;
 - (h) Management of tubing and dressing; and
 - (i) Signature and discipline of the administering individual.
- (6) If parenteral preparations are administered to pediatric patients, the agency shall establish written policies for:
 - (a) Amounts of parenteral fluid infants, children, and adolescents should receive determined by age, body surface area, and weight;
 - (b) Required use of rate control devices;
 - (c) Documentation requirements specified for parenteral therapy to include intake, output, weight, and height;
 - (d) The type of parenteral preparations which may be administered at home;
 - (e) Conditions requiring a registered nurse to be in attendance; and
 - (f) A plan for emergency services.
- (7) The agency shall ensure, if blood or blood products are administered in the patient's residence, there is:
 - (a) A registered nurse or physician continuously in attendance;
 - (b) A plan for emergency services; and
 - (c) A method of delivery ensuring temperature stability, prevention of contamination, and viability.

NEW SECTION

WAC 248-31-185 **MEDICAL SUPPLIES OR EQUIPMENT SERVICES.** (1) An agency providing medical supplies or equipment services shall provide:

- (a) A written description of the scope of the services including:
 - (i) The types of supplies and/or equipment provided; and
 - (ii) Policies and procedures for cleaning, maintenance, calibration, or replacement of equipment.
- (b) Records of the services provided, date, time, and by whom; and
- (c) Documentation of approval of patient unit for service, cost, and method of payment.

(2) If provided, the agency shall maintain immediate availability of replacement supplies or equipment essential for the comfort and safety of the patient.

(3) The agency shall provide knowledgeable, trained personnel to:

- (a) Initiate service;
- (b) Maintain supplies and equipment; and
- (c) Instruct patients or caregivers in the use and maintenance of supplies and equipment. Instructions shall be given:
 - (i) In writing;
 - (ii) Verbally; and
 - (iii) By demonstration and redemonstration as necessary.
- (4) The agency shall document the training and qualifications of personnel.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 248-31-001	PURPOSE.
WAC 248-31-002	DEFINITIONS.
WAC 248-31-010	CERTIFICATION OF HOSPICE.
WAC 248-31-020	GOVERNING BODY—
ADMINISTRATION.	
WAC 248-31-030	PERSONNEL.
WAC 248-31-040	GENERAL REQUIREMENTS.
WAC 248-31-050	QUALITY ASSURANCE.
WAC 248-31-060	HOSPICE PLAN OF CARE.
WAC 248-31-070	INTERDISCIPLINARY TEAM.
WAC 248-31-075	CLINICAL MANAGEMENT.
WAC 248-31-080	PHYSICIAN SERVICES.
WAC 248-31-090	NURSING SERVICES.
WAC 248-31-100	COUNSELING SERVICES.
WAC 248-31-110	THERAPY SERVICES.
WAC 248-31-120	MEDICAL SOCIAL SERVICES.
WAC 248-31-130	HOME HEALTH AIDE SERVICES.
WAC 248-31-140	VOLUNTEERS.
WAC 248-31-150	MEDICAL SUPPLIES AND EQUIPMENT—APPARATUS—DRUGS.
WAC 248-31-160	CLINICAL RECORDS.

Chapter 248-36 WAC HOME CARE AGENCY RULES

NEW SECTION

WAC 248-36-005 **PURPOSE.** The purpose of these rules is to administratively implement chapter 70.127 RCW by establishing minimum licensing standards related to safety and well-being of participants in home care agencies.

NEW SECTION

WAC 248-36-015 **DEFINITIONS.** For the purpose of chapter 70.127 RCW and chapter 248-36 WAC, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise.

- (1) "Administrator" means a person managing and responsible for the day-to-day operation of each licensed agency.
- (2) "Agency" means a home care agency as defined under this section and chapter 70.127 RCW.
- (3) "AIDS" means acquired immunodeficiency syndrome defined under WAC 248-100-011.
- (4) "Branch office" means a location or site from which an agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency, included in the license of the agency, and located sufficiently close to share administration, supervision, and services.
- (5) "Bylaws" means a set of rules adopted by an agency for governing the agency operation.
- (6) "Department" means the department of social and health services or successor health department.
- (7) "Family" means an individual or individuals who are important to and designated by the participant, and who may or may not be relatives.
- (8) "Governing body" means the person, who may be the owner or a group, with responsibility and authority to establish policies related to operation of the agency.

(9) "HIV" means human immunodeficiency virus as defined under RCW 70.24.017(7).

(10) "Home care agency" means a private or public agency or organization administering or providing home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence unless:

(a) Included as an exclusion under RCW 70.127.040; or

(b) A licensed home health agency or hospice agency delivers home care as an integral part of delivery of home health or hospice care; or

(c) The organization provides home care through volunteers without compensation as defined in this section; or

(d) An individual provides home care through direct agreement with the recipient of care; or

(e) An individual provides home care through a direct agreement with a third-party payor where comparable services are not readily available through a home care agency.

(11) "Home care plan of care" or "care plan" means a written personalized plan established and periodically reviewed by a home care agency describing the home care to be provided and requiring consent of the participant or the participant's designated representative.

(12) "Home care services" means personal care services, homemaker services, respite care services, or any other nonmedical services provided to ill, disabled, or infirm persons enabling these persons to remain in their own residences consistent with their desires, abilities, and safety.

(13) "Homemaker services" means services assisting ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management, including transportation, shopping, and maintenance of premises.

(14) "Ill, disabled, or infirm persons" means persons needing home health, hospice, or home care services in order to maintain themselves in their places of temporary or permanent residence.

(15) "Managed care plan" means a plan controlled by the terms of the reimbursement source.

(16) "May" means permissive or discretionary on the part of the department.

(17) "Other nonmedical services" means noninvasive procedures, such as assistance with toileting, applying nonsterile dry dressing, ambulation, transfer, positioning, bathing, reminding about medication, or other services unless such service must be delivered by a licensed or certified individual under Washington state law.

(18) "Owner" means the individual, partnership, or corporate entity legally responsible for the business requiring licensure as a home care agency under chapter 70.127 RCW.

(19) "Participant" means an individual receiving home care services.

(20) "Personal care services" means services assisting ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self-care.

(21) "Personnel" means volunteers and individuals employed or under contract in a home care agency.

(22) "Respite care services" means services assisting or supporting the primary caregiver on a scheduled basis.

(23) "Shall" means compliance is mandatory.

(24) "Supervisor" means an individual qualified by training, education, and demonstrated skills and/or experience in home care service delivery who assumes the responsibility for the accomplishment of a function or activity and who provides initial direction and ongoing monitoring of performance.

(25) "Volunteer" means an individual providing assistance to the home care agency and:

(a) Oriented, trained, and supervised to perform specific assigned tasks; and

(b) Working without compensation.

(26) "Without compensation" means:

(a) A recipient of care is not charged a fee for any service delivered by the volunteer; and

(b) An individual delivering care receives no pay, except reimbursement for personal mileage incurred to deliver home care services.

NEW SECTION

WAC 248-36-025 LICENSURE OF THE HOME CARE AGENCY. (1) Persons operating home care agencies as defined under chapter 70.127 RCW, shall submit application and fees to the department by July 1, 1989.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a home care agency without first obtaining an appropriate license from the department; or

(b) Use the words "home care agency" or "home care services" in its corporate or business name, or advertise using such words unless licensed as a home care agency under chapter 70.127 RCW.

(3) Applicants for a home care agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner; and

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage as specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency, including branch offices.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid as required under RCW 43.20B.110 and chapter 440-44 WAC, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

(d) Prohibit transfer or reassignment of a license without a thirty-day prior notice to the department and department approval;

(e) Issue a license following approval of a new or current owner's application;

(f) Conduct on-site reviews of the agency, which may include in-home visits with the consent of the participant, in order to determine compliance;

(g) Examine and audit records of the agency if the department has reason to believe persons are providing care without an appropriate license;

(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;

(i) Give written notice of any violations, including a statement of deficiencies observed;

(j) Inform the owner or applicant of the requirement to:

(i) Present a plan of correction to the department within ten days; and

(ii) Comply within a specified time not to exceed sixty days.

(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:

(i) The deficiency is an immediate threat to life, health, or safety; or

(ii) The owner fails to comply with any of the provisions of WAC 248-36-045 (3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.

(7) The department may:

(a) Issue a license effective for one year unless the license is suspended or revoked;

(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter; and

(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW or this chapter. Actions to deny, suspend, modify, or revoke the license shall be consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:

(a) Full name and address of the current owner and prospective new owner;

(b) Name and address of the agency and new name under which the agency will be operating, if known; and

(c) The date of the proposed change of ownership.

(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.

(10) The agency shall inform the department in writing at the time of opening or closing of the agency or branch offices.

NEW SECTION

WAC 248-36-035 LICENSE DENIALS—SUSPENSIONS—MODIFICATIONS—REVOCATIONS. (1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) Fails or refuses to comply with the provisions of chapter 70.127 RCW or this chapter;

(b) Continues to operate after the license is revoked or suspended for cause and not subsequently reinstated by the department;

(c) Makes false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;

(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;

(e) Willfully prevents or interferes with or attempts to impede in any way the work of any representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;

(f) Willfully prevents or interferes with any representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 248-36-045, Civil Fines;

(h) Uses false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond those authorized by the agency or law; or

(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.

(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.

(3) The department shall inform the owner or applicant in writing of a denial, suspension, modification, or revocation of a license, and of the right to appeal, with such notice:

(a) Stating the reasons for the adverse action; and

(b) Personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt.

(4) Unless stated otherwise, the department shall consider the denial, suspension, modification, or revocation effective twenty-eight days after receipt.

(5) The department may make the date of action effective:

(a) Later than twenty-eight days after receipt if the department states the effective date in the written notice to the owner or applicant; and

(b) Sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare if the department states the effective date and the reasons supporting the effective date in the written notice.

NEW SECTION

WAC 248-36-045 CIVIL FINES. (1) Following an on-site review, in-home visit, or audit, the department shall give written notice either in person or by personal service or certified mail, return receipt requested, of any violation under chapter 70.127 RCW or this chapter. The notice shall inform the owner or applicant as appropriate including:

(a) Describing the conditions of noncompliance;

(b) Specifying a reasonable time of compliance not to exceed sixty days;

(c) Explaining the possibility of a violation subjecting the owner or applicant to denial, revocation, modification, or suspension of the license and/or civil fines; and

(d) Explaining the right of the owner or applicant to appeal.

(2) The department may assess civil monetary penalties in addition to or in lieu of denial, suspension, modification, or revocation of a license if the owner fails to comply with a notice of violation.

(3) The department may assess civil monetary penalties not to exceed one thousand dollars per violation in any case when the department finds the owner, applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or owner's assets:

(a) Failed or refused to comply with requirements of chapter 70.127 RCW or this chapter;

(b) Continued to operate after the license was revoked or suspended for cause and not subsequently reinstated by the department;

(c) Has knowingly or with reason to know made a false statement of a material fact in the:

(i) Application for the license; or

(ii) Data attached; or

(iii) Record required under chapter 70.127 RCW; or

(iv) Matter under investigation by the department.

(d) Refused to allow representatives of the department to inspect any book, record, file or part of the agency required under this chapter;

(e) Willfully prevented, interfered with, or attempted to impede the work of any representative of the department in the lawful enforcement of a provision under chapter 70.127 RCW and this chapter;

(f) Willfully prevented or interfered with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Failed to pay or make arrangements to pay any civil monetary penalty assessed by the department under chapter 70.127 RCW within ten days after the assessment became final;

(h) Used false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresented or was fraudulent in any aspect of the conduct of the home care business.

(4) Failure to pay or make arrangements to pay civil monetary penalties within ten days from the time the assessment becomes final may result in denial, suspension, modification, or revocation of the license, in addition to the assessment of the penalties or to the assessment of additional penalties.

(5) The department shall give written notice to the owner or applicant against whom it assesses a civil fine, including the right to appeal. The written notice shall:

(a) State the reasons for the adverse action;

(b) Be personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt; and

(c) State the effective date of the civil fine is:

(i) Twenty-eight days after receipt of the written notice; or

(ii) A later date at the discretion of the department.

NEW SECTION

WAC 248-36-055 APPEALS—HEARINGS. (1) Any owner or applicant aggrieved by the department's denial, suspension, modification, or revocation of a license, or imposition of a civil penalty, may request a department hearing.

(2) Any owner or applicant requesting a department hearing shall make the request in writing and:

(a) State the issue and law upon which the appeal relies;

(b) State the grounds for contesting the denial, suspension, modification, or revocation of license or imposition of civil fines;

(c) State current address and telephone number, if any;

(d) Attach a copy of the department notice of denial, suspension, modification, or revocation of license or imposition of civil fines;

(e) Submit the request for hearing within twenty-eight days of the date of receipt of the department notice of denial, suspension, modification, or revocation of license or imposition of civil penalty; and

(f) Deliver the request by personal service or by certified mail to the Office of Appeals, 12th Avenue and Franklin Street, P.O. Box 2465, Olympia, Washington 98504-2465.

(3) The department shall:

(a) Treat a mailed request as effective on the date it was post-marked, if the mailed request is received by the office of appeals properly addressed and with no postage due;

(b) Conduct hearings under chapters 10-08 and 388-08 WAC and chapter 34.05 RCW, Administrative Procedure Act;

(c) Apply this section if any provision of this section conflicts with chapter 388-08 WAC; and

(d) Follow the decision-making procedure including:

- (i) Initial decision;
- (ii) Petition for review; and
- (iii) Review decision procedure.

(4) When an owner or applicant files an appeal within the time limits specified under this section, department action to deny, suspend, modify, or revoke a license, or impose a civil fine shall proceed as follows:

(a) When the department gives an owner or applicant twenty-eight or more days written notice and the owner or applicant files an appeal before the effective date on the written notice, the department:

- (i) Shall delay implementing the adverse action until the order from the administrative hearing is served upon the owner or applicant; and
- (ii) May implement part or all of the adverse action while the proceedings are pending if the:

(A) Presiding or reviewing officer permits the department to start such action; and

(B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.

(b) When the department gives an owner or applicant less than a twenty-eight-day written notice and the owner or applicant files an appeal, the department may:

(i) Implement the adverse action on the effective date stated in the written notice; or

(ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause.

NEW SECTION

WAC 248-36-065 GENERAL REQUIREMENTS. (1) The agency shall have a written plan of operation including:

(a) An organizational chart showing ownership and lines of delegation of responsibility to the participant care level;

(b) The services offered, including hours of operation and service availability;

(c) Criteria for participant acceptance, referral, transfer, and termination;

(d) Evidence of direct administrative and supervisory control and responsibility for all services including services provided by branch offices;

(e) An annual budget approved by the governing body; and

(f) Provisions for informing each participant of other community resources if the agency ceases operation.

(2) The agency shall provide services for the participant consistent with the care plan and:

(a) Accept participants only when the agency is capable of providing the specific services or level of care requested by the participant or the participant's authorized representative and appropriate to the participant needs; and

(b) Inform the participant of other services when the home care agency is unable to meet identified needs.

(3) Agency personnel shall communicate in a language or form of communication the participant and family can reasonably be expected to understand. Whenever possible, the agency shall assist in obtaining:

(a) Special devices;

(b) Interpreters; or

(c) Other aids to facilitate communication.

NEW SECTION

WAC 248-36-077 PARTICIPANT BILL OF RIGHTS. The agency shall provide each participant and family with a written bill of rights affirming each participant's right to:

(1) Be informed of the services offered by the agency and those being provided;

(2) Refuse services;

(3) Request a change of service;

(4) Participate in development of the care plan;

(5) Receive an explanation of any responsibilities the participant may have in the care process;

(6) Be informed of the name of the person supervising the care and how to contact that person;

(7) Be informed of the process for submitting and addressing complaints to the agency and department;

(8) Receive an explanation of the agency's charges and policy concerning billing and payment for services, including, to the extent possible, insurance coverage and other payment options unless services are reimbursed through a managed care plan;

(9) Receive, upon request, a fully itemized billing statement at least monthly, including the date of each service and the charge unless service is reimbursed through a managed care plan;

(10) Have access to the department's registry of licensed agencies and who to contact in the community for financial resource information;

(11) Upon request, be informed of who owns and controls the agency;

(12) Personnel properly trained to perform assigned tasks;

(13) Coordinated services;

(14) Courteous and respectful treatment, privacy, and freedom from abuse and discrimination;

(15) Confidential management of participant records and information;

(16) Access information in the participant's own record upon request; and

(17) Receive prior notice and an explanation for reasons of termination, referral, transfer, discontinuance of service, or change in the care plan.

NEW SECTION

WAC 248-36-085 GOVERNING BODY—ADMINISTRATION. (1) The governing body of the agency shall establish a mechanism to:

(a) Approve a quality assurance plan whereby problems are identified, monitored, and corrected;

(b) Adopt and periodically review written bylaws or an acceptable equivalent;

(c) Approve written policies and procedures related to safe, adequate services and operation of the agency with annual or more frequent review by administrative and supervisory personnel;

(d) Appoint an administrator and approve a plan for an alternate in the administrator's absence;

(e) Oversee the management and fiscal affairs of the agency; and

(f) Approve a method of obtaining regular reports on participant satisfaction.

(2) Each agency shall have an administrator to:

(a) Organize and direct the agency's ongoing functions;

(b) Maintain ongoing liaison between the governing body and the personnel;

(c) Employ qualified personnel and ensure appropriate ongoing education and supervision of personnel;

(d) Ensure the accuracy of public information materials and activities;

(e) Implement a budgeting and accounting system; and

(f) Ensure the presence of an alternate administrator to act in the administrator's absence.

NEW SECTION

WAC 248-36-095 PERSONNEL. (1) The agency shall establish written personnel policies including, but not limited to:

(a) Personnel qualifications commensurate with anticipated job responsibilities;

(b) Employment criteria without regard to sex, race, age, creed, handicap, national origin, or sexual orientation;

(c) Orientation and in-service training appropriate to each classification of personnel and the tasks he or she is expected to perform, including information about safety and emergency procedures;

(d) Evidence of pre-hire screening; and

(e) Annual or more frequent performance evaluations including:

(i) Knowledge of safety pertinent to job assignment;

(ii) Conformance with agency policies and procedures; and

(iii) Observation of performance of personnel in the environment appropriate to job expectations.

(2) The agency shall maintain records including:

(a) Qualifications of personnel;

(b) Evidence of current licensure, certification, or registration when applicable to job requirements;

(c) Documentation of orientation and training required to perform assigned tasks, consistent with this chapter;

(d) Evidence of review of agency policy and procedures related to reporting any suspected abuse and neglect of children and adults consistent with chapters 26.44 and 74.34 RCW;

(e) Performance evaluations;

(f) Evidence of pre-hire screening prior to working with the agency; and

(g) Evidence of notification of the local health department when personnel are exposed to an infectious case of tuberculosis, as required in subsection (3) of this section.

(3) In the event of personnel exposure to an infectious case of tuberculosis, the agency shall supply the names and identifying information to the local health department sufficient for screening to occur.

(4) The agency shall:

(a) Assure observance of appropriate precautions when personnel are known to have a communicable disease in an infectious stage; and

(b) Assume responsibility for personnel providing all services included in the care plan.

NEW SECTION

WAC 248-36-105 AIDS EDUCATION AND TRAINING.

Home care agencies shall:

(1) Provide or arrange for appropriate education and training of personnel on the prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and

(2) Use infection control standards and educational material consistent with the approved curriculum manual Know-AIDS Education for Health Care Facility Employees, March 1, 1989, published by the department office on HIV/AIDS.

NEW SECTION

WAC 248-36-115 PARTICIPANT CARE POLICIES AND PROCEDURES. (1) The home care agency shall establish and implement policies and procedures appropriate to the specific services provided and available in writing to all personnel, including:

(a) All tasks carried out in providing services and implementing the care plan;

(b) Observations to be reported to the supervisor;

(c) Coping with difficult situations;

(d) Transporting of participants by licensed insured drivers;

(e) Any special qualifications of persons performing the services;

(f) Infection control principles and practices;

(g) Emergency procedures, participant safety, and death;

(h) Safe handling and use of supplies, equipment, and toxic or hazardous substances;

(i) Safe handling and preparation of food products;

(j) Abuse and neglect consistent with chapters 26.44 and 74.34 RCW;

(k) Coordination of inter- and intra-agency services;

(l) Participant records; and

(m) Restriction on personnel assisting with participant-owned medications only as provided in the care plan and restricted to:

(i) Reminding the participant of when it is time to take a prescribed medication;

(ii) Handing the medication container to the participant;

(iii) Opening the medication container; and

(iv) Assistance with application of skin, nose, eye, and ear preparations according to label when a participant is mentally oriented and able to supervise application.

(n) Limitations regarding handling of participant-owned money and property.

(2) Agencies shall review participant care policies and procedures annually and revise as necessary.

NEW SECTION

WAC 248-36-125 SUPERVISION AND COORDINATION OF SERVICES. The agency shall employ a supervisor responsible for:

(1) Assessment of participant/family needs except under managed care plans;

(2) Development of care plan, except under managed care plans;

(3) Implementing the care plan;

(4) Referral to other community resources;

(5) Explaining resources the participant may access;

(6) Performance evaluations as indicated under WAC 248-36-095. Personnel;

(7) Regular monitoring of effectiveness of the care plan, including:

(a) The participant's satisfaction with care received;

(b) Participant's health and safety;

(c) Periodic contact with participant to re-assess effectiveness and appropriateness of home care plan of care;

(d) Participating in development and review of agency policies for coordination; and

(e) Coordination or arrangement of home care services.

NEW SECTION

WAC 248-36-135 HOME CARE PLAN OF CARE. Agencies shall:

(1) Ensure personnel follow an approved written care plan;

(2) Include all services to be provided in the care plan; and

(3) Ensure review and revision of care plan, as necessary:

(a) Whenever reports by the participant, family, or caregiver indicate substantial change in services needed;

(b) Based upon assessment by the supervisor, unless done through a managed care plan; and

(c) At least every six months for personal care services.

NEW SECTION

WAC 248-36-165 RECORDS AND DOCUMENTATION OF PARTICIPANT CARE. (1) The home care agency shall maintain records which are orderly, intact, and:

(a) Legibly written in ink suitable for photocopying;

(b) In an agency-approved format;

(c) Written in a legally acceptable manner;

(d) Considered as property of the home care agency;

(e) Include observations about the participant's physical condition;

(f) Available and retrievable either in the agency or by electronic means during business hours; and

(g) Stored following discontinuance from service in a manner which:

(i) Prevents loss or manipulation of information;

(ii) Protects the record from damage; and

(iii) Prevents access by unauthorized persons.

(2) Records shall include:

(a) Appropriate participant identifying information;

(b) Appropriate service consent and agreement, including payment source;

(c) Pertinent past and current information, including:

(i) Documentation of a participant assessment by a supervisor on acceptance and when conditions change extensively;

(ii) Notation of all services provided and recorded in the record or in another file maintained by the agency; and

(iii) Documentation of significant observations.

(d) Care plan; and

(e) Termination statement.

(3) Agencies shall ensure documentation, including:

(a) Recording of the service on the day it is provided;

(b) Immediate incorporation of reports of unusual events or incidents with date, time, and signature or valid initials of the recorder; and

(c) Entries incorporated within a month from the day service is rendered if the record is maintained in the agency.

(4) Agencies shall maintain, retain, and preserve records:

(a) For adults, a period of no less than five years following the date of discontinuation of service; and

(b) For minors, a period of no less than three years following attainment of eighteen years of age or five years following discontinuance of agency services, whichever is longer.

(5) Agencies shall establish policies and procedures specific to retention and disposition of records, including:

(a) Arrangements for preservation of participant records if the agency discontinues operation with a plan approved by the department; and

(b) A method of disposal of records assuring prevention of retrieval and subsequent use of information.

(6) Agencies shall safeguard recorded participant information against loss or unauthorized use, including:

(a) Adherence to written procedures governing use and removal of records and conditions for release of information; and

(b) Requirement for prior written consent of the participant for release of information unless authorized by law.

WSR 89-07-024
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2773—Filed March 8, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to social services for families, children and adults, amending chapter 388-15 WAC.

This action is taken pursuant to Notice No. WSR 89-03-048 filed with the code reviser on January 13, 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 74.15.030.

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 March 8, 1989.

By Bill Griffith
for Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

WAC 388-15-130 CHILD PROTECTIVE SERVICES—AUTHORITY. The authority for the department's child protective services (CPS) program is chapter 26.44 RCW and RCW 74.13.031.

(1) GOAL STATEMENT. The purpose of CPS is to protect children from child abuse and neglect (CA/N) through the provision of services to:

- (a) Assess risk of abuse or neglect to children;
- (b) Develop case plans preventing or remedying CA/N in the shortest reasonable time; and
- (c) Maintain, support, or reunify families to the extent possible consistent with the safety of the child.

(2) DEFINITION OF SERVICE. Child protective services are those services provided by the department on behalf of children who are reported to be abused, neglected, or exploited or who are threatened with harm through abusive, neglectful, or exploitive acts by ~~((those responsible for their health, safety and welfare. Services are given to prevent, correct, improve or remedy the situations of children who are found to be neglected, abused or exploited, including runaways.~~

~~((2) Services may also include)):~~

- (a) The child's parent, legal custodian, or persons serving in loco parentis; or
- (b) Persons licensed or certified under chapter 74.15 RCW; or

(c) Persons included within those categories of alleged perpetrators and subject to CPS investigation, as specified by department manual provisions or policy directives.

(3) DEFINITION OF CHILD ABUSE, NEGLECT, OR EXPLOITATION (CA/N). Abusive, neglectful, or exploitive acts defined in RCW 26.44.020 include:

(a) Inflicting physical injury on a child by other than accidental means, causing death, disfigurement, skin bruising, impairment of physical or emotional health, or loss or impairment of any bodily function.

(b) Creating a substantial risk of physical harm to such child's bodily functioning.

(c) Committing or allowing to be committed any sexual offense against such child as defined in the criminal code or intentionally touching, either directly or through the clothing, the genitals, anus, or breasts of a child for other than hygiene or child care purposes.

(d) Committing acts which are cruel or inhumane regardless of observable injury. Such acts may include, but are not limited to, instances of extreme discipline demonstrating a disregard of a child's pain and/or mental suffering.

(e) Assaulting or criminally mistreating a child as defined by the criminal code.

(f) Failing to provide food, shelter, clothing, supervision, or health care necessary to a child's health or safety.

(g) Engaging in actions or omissions resulting in injury to, or creating a substantial risk to the physical or mental health or development of a child.

(h) Failing to take reasonable steps to prevent the occurrence of (a) through (g).

(4) DESCRIPTION OF SERVICES.

(a) The department's child protective services shall include:

- (i) Investigation of CA/N reports (RCW 26.44.050);
- (ii) Development, management, and provision of services to ameliorate conditions endangering the welfare of children;
- (iii) Coordination of programs and services relevant to the prevention and treatment of CA/N;
- (iv) Case planning to ensure each child has a permanent home;
- (v) Community education; and
- (vi) Development of preventative services to reduce and/or eliminate CA/N.

(b) Department services may also include:

- (i) Counseling with the children and their families((;)) or other responsible individuals((;));
- (ii) Arranging ((for alternate living arrangements)) out-of-home placement, ((including)) e.g., relative placement, emergency foster care, etc.; ((day care; homemaker or chore service))
- (iii) In-home support services; ((health support services and mental health services. Services also may include referral to appropriate law enforcement agencies and petitions to courts, as well as cooperation))
- (iv) Petitions to courts;
- (v) Information about and/or referral to other agencies or persons; and
- (vi) Cooperating with out-of-state child protective service agencies.

~~((3))~~ (5) ((Goals for child protective services shall be limited to those specified in WAC 388-15-010(1)(c).

~~Also see WAC 388-15-010(2))~~ COMMUNITY INVOLVEMENT. The department shall involve local community resources in the planning and provision of needed services. Involvement shall include:

- (a) Notifying law enforcement of department activity in cases being investigated by both agencies.
- (b) Coordination of community resources to provide identification, prevention, and treatment of CA/N.
- (c) Organizing community child protection teams of professional persons or agencies providing services to abused or neglected children and/or parents of such children.
- (d) Other activities to coordinate the investigation and keep participants apprised of case progress per RCW 26.44.035.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

WAC 388-15-132 CHILD PROTECTIVE SERVICES—ACCEPTANCE OF REPORTS—ELIGIBILITY FOR SERVICES AND LIMITS TO AUTHORITY. ((Reports shall be made directly to the department's CSO:))

(1) ACCEPTANCE OF REPORTS. The ((departmental CSO)) department shall accept a ((complaint or referral concerned with child abuse or neglect, neglect or exploitation of children)) report of CA/N from any source, including one made anonymously. Reports shall be made directly to the department's division of children and family services (DCFS) local office per RCW 26.44.030.

(a) The department shall determine whether reports allege incidents, conditions, or circumstances meeting the definition of CA/N in RCW 26.44.020 and WAC 388-15-130, and

(b) The department shall have the authority to refuse to investigate reports which do not meet the statutory definition of CA/N.

(2) REPORTS TO LAW ENFORCEMENT. The department shall report to the appropriate law enforcement agency any reported incident of death, sexual abuse, or nonaccidental physical injury of a child and any incident where the CPS investigation reveals reasonable cause to believe a crime is committed. The report to law enforcement shall be made within three working days following:

(a) Receipt of a complaint alleging death, sexual abuse, or nonaccidental physical injury of a child; or

(b) During a CPS investigation, discovery of information creating reasonable cause to believe a child died, suffered sexual abuse, or had a nonaccidental physical injury; or

(c) During a CPS investigation, discovery of information creating reasonable cause to believe a crime is committed against a child.

(3) INVESTIGATION. The department, except as provided by RCW 26.44.050 and WAC 388-15-130(2), shall be responsible for investigation of reports of suspected CA/N.

(a) The department shall begin its investigation within twenty-four hours for all CA/N reports where children are assessed to be at risk of imminent harm;

(b) The department shall investigate all other reports meeting the legal definition of CA/N, but may determine an appropriate response time based on the assessed risk of CA/N; and

(c) The department:

(i) Shall develop and maintain records of its investigations of CA/N per RCW 26.44.035, and

(ii) May arrange for ongoing services by another agency.

(d) Upon receiving a report of incidents, conditions, or circumstances of CA/N, the department shall:

(i) Have access to any and all records of the child in the possession of mandated reporters and their employers;

(ii) Have the authority to interview children without prior parental notification or consent;

(iii) Have authority to interview children outside of the presence of parents at locations determined by the department to be suitable for an interview. The child or the department may have a third party present at the interview so long as the investigation is not jeopardized per RCW 26.44.030; and

(iv) Notify the child's parent, guardian, or caretaker about the interview per RCW 26.44.030(9).

(e) The department shall complete the investigation within ninety days from the date of report. The department shall make written findings of all investigations including:

(i) A description of any injuries or harm inflicted on the child,

(ii) An account of the department's investigation,

(iii) The findings regarding specific allegations,

(iv) An assessment of risk to the child, and

(v) The department's disposition of the case (RCW 13.34.120 and 26.44.040).

(4) LIMITS TO AUTHORITY. The department:

(a) Shall have the authority to share information for case planning and case consultation purposes with mandated reporters and agencies which have provided or will provide services to the child and family per RCW 26.44.030; and

(b) May share information with community child protection teams, designated members of Washington Indian tribes, and/or citizen advisory groups to assist in case planning, consultation, and policy review per RCW 26.44.030.

(5) SERVICE OPTIONS (NINETY-DAY RULE). Within ninety days of receipt of a report alleging a child is at risk of CA/N, the department shall:

(a) Develop, with the family, a mutually agreed upon written service plan;

(b) File a dependency petition with the juvenile court; or

(c) Close the case.

(6) JUVENILE COURT CASE PLANS. When the department files a dependency petition, the department shall develop a written social study and proposed case plan for the court to consider at the dispositional hearing per RCW 13.34.120:

(a) Mail a copy to the parent or parents and their attorney at least ten days prior to the disposition hearing, and

(b) Provide the parent or parents an opportunity to review and comment on the plan at the local DCFS office.

(7) REOPENING CLOSED CASES. Any closed case may be reopened by the department for good cause including, but not limited to:

(a) Further allegations of CA/N;

(b) Additional information pertaining to the department's investigation; or

(c) When necessary witnesses or other persons, e.g., parent or child, are located or become available to complete the investigation.

(8) LENGTH OF ELIGIBILITY. Any child ((so)) reported to the department shall be eligible for child protective services ((and)). A child shall remain eligible until ((it is determined that)) he or she is ((not suffering from maltreatment and his welfare)) no longer abused or neglected or is ((not or is)) no longer ((in jeopardy)) at risk of CA/N subject to the provisions of WAC 388-15-130 and 388-15-132.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

WAC 388-15-134 CHILD PROTECTIVE SERVICES—NOTIFICATION(~~—SUBSTANTIATION~~). (1) DUTY TO NOTIFY. The department shall notify the ((parents, stepparents, guardians or other persons having custody of the child or other person alleged to be the abuser that)) parent or legal custodian of a child when:

(a) The department ((has received)) is investigating a report alleging ((condition(s) specified in WAC 388-15-132 unless the report is for informational purposes only because the situation has been resolved by law enforcement and/or by the courts. The identity of the person making the report to the department shall not be revealed unless that person has given permission to do so)) an act or acts of child abuse or neglect (CA/N); and

(i) Their child is alleged to be the victim; and/or

(ii) The department interviews a child alleged to be the victim of CA/N.

(b) The department takes a child into custody pursuant to a court order issued under RCW 13.34.050;

(c) The department receives custody of a child from law enforcement pursuant to RCW 26.44.050; and

(d) The department files a dependency petition.

(2) ((Unless the report was for information purposes only as specified in subsection (1), the parent or parents surrogate or other alleged abuser as specified above, shall be provided the opportunity to supply information about the allegation and his situation. This person's response about the allegation and his situation including a written statement, if any, shall be a part of the department's case record)) NOTIFICATION OF NONCUSTODIAL PARENTS.

(a) The department shall notify noncustodial parents when a child is taken into custody pursuant to RCW 26.44.050 or 13.34.050 and placed into the custody of the department, and

(b) Notification shall also occur when the department files a dependency petition.

(3) ((The person, if available, shall be notified that the information will be on file in the CSO)) NOTIFICATION CONTENTS. Whenever a child is taken into custody under RCW 13.34.050 or 26.44.050, the notification required by this section shall comply with the requirement of RCW 26.44.120. The notification shall also include:

(a) A description of the department's action; and

(b) The reason or reasons for the department's actions.

(4) ((The person, if available, shall be informed of the placement of his name as an abuser in the central registry)) OPPORTUNITY TO REVIEW CASE INFORMATION. The department shall:

(a) Notify the person or persons legally responsible for the child of the address of the office where the case record information will be on file; and

(b) Provide them with the opportunity to read parts of the case record relating to the allegations, provided:

(i) They have requested access to the information, and

(ii) Such access is not otherwise prohibited by law.

(5) ((The person, if available, shall be advised of his right to a fair hearing in accordance with chapter 388-08 WAC.

(6) The department shall determine if there is a factual basis for the report, unless the report is already substantiated or is for information purposes only.

(a) A report which contains facts about the state or condition of the child amounting to child abuse made by any person under a mandatory duty to report shall be considered substantiated and must be reported to the central registry. The substantiation of the identity of the alleged abuser shall be considered separately.

(b) Regardless of source, a report in which the facts support the conclusion(s) is to be considered substantiated. If the report is substantiated and falls within the definition of what is to be reported to the central registry, it must also be reported to the central registry. The parent or parent surrogate or other suspected/alleged perpetrator, if available, shall be notified that the information has been forwarded to the central registry.

(7) Even if the report is not substantiated, service may continue as per WAC 388-15-132)) DISCLOSURE OF CASE INFORMATION. The department shall not disclose case record information except as permitted under provisions of chapter 388-320 WAC and applicable statutes. The department shall not disclose the name and address of any referrant who requests their identity be held in confidence. Even if disclosure is otherwise permissible, the department may refuse disclosure of the name and address of any victim.

(6) LIMITS OF DUTY TO NOTIFY. The duty of notification created by this section shall be subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

WSR 89-07-025
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed March 8, 1989]

Notice is hereby given under WAC 1-12-033 that the Department of Ecology will not take further action under WSR 89-01-108 to amend WAC 173-20-700 Lakes coming under purview of chapter 90.58 RCW—Thurston County lakes.

Carol Jolly
 Assistant Director

WSR 89-07-026
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order DE 88-55—Filed March 8, 1989]

I, Carol Jolly, assistant director of Water and Shorelands, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Snohomish County, amending WAC 173-19-390.

This action is taken pursuant to Notice No. WSR 89-01-107 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 90.58.120 and 90.58.200 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 March 7, 1989.

By Carol Jolly
 Assistant Director

AMENDATORY SECTION (Amending Order DE 86-41, filed 2/11/87)

WAC 173-19-390 SNOHOMISH COUNTY. Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. (~~Revision approved September 11, 1986.~~) Revision approved September 11, 1986. Revision approved February 11, 1987. Revision approved March 7, 1989.

WSR 89-07-027
WITHDRAWAL OF PROPOSED RULES
HORSE RACING COMMISSION
 [Filed March 9, 1989]

The Horse Racing Commission hereby gives notice of its intent to withdraw proposed rules filed on February 1, 1989, cited as WSR 89-04-068 [89-04-060]. The

Horse Racing Commission further gives notice that the adoption hearing set for March 10, 1989, is cancelled.

William A. Garling, Jr.
 Assistant Attorney General

WSR 89-07-028
ATTORNEY GENERAL OPINION
Cite as: AGO 1989 No. 4
 [February 17, 1989]

SURROGATE PARENT AGREEMENTS—CHILDREN—PARENT AND CHILD—ADOPTION—PARENTAL OR SPOUSAL CONSENT—DEPARTMENT OF SOCIAL AND HEALTH SERVICES

1. Surrogate parent agreements in general are not unlawful in Washington.
2. It is not lawful for a person, in return for money or other valuable consideration, to serve as a broker or otherwise arrange or facilitate a surrogate parenting agreement, unless the person is an agency certified or licensed by the Department of Social and Health Services as a child-placing agency or as an adoption agency, or unless the only payment is reimbursement or prenatal hospital or medical expenses involved in the birth of the child, or attorneys' fees and court costs involved in transfer of child custody.
3. A surrogate parenting agreement is not enforceable against a surrogate mother who withdraws her consent to relinquish her child before court approval of the consent.

Requested by:

Honorable Dennis Braddock
 State Representative
 342 House Office Building
 Olympia, WA 98504

WSR 89-07-029
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
 [Order 1997—Filed March 9, 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 prohibited noxious weed seeds, chapter 16-300 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 this order will add the noxious weed seed Serrated tussock to the list of weeds prohibited in this state. Serrated tussock is not known to exist in Washington state, but has been found in imported tall fescue seed and other grass seed mixtures in Oregon.

The department has been informed that certain grass seed lots sold by K-Mart stores throughout the United States may contain Serrated tussock (*Nassella trichotoma*). Due to the potential for this plant to become a harmful noxious weed in Washington, this order is necessary. Oregon has recently adopted a quarantine on this weed.

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

This rule is promulgated pursuant to chapter 15.49 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 March 9, 1989.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1796, filed 5/16/83)

WAC 16-300-010 PROHIBITED NOXIOUS WEED SEEDS. (1) *Prohibited (primary) noxious weed seeds are the seeds of weeds which when established are highly destructive, competitive and/or difficult to control by cultural or chemical practices.*

(2) *It shall be unlawful for any person to distribute mislabeled seed. Seed shall be deemed to be mislabeled if it consists of or contains any of the prohibited noxious weed seeds listed below. For the purpose of seed certification, see WAC 16-316-160 for the list of prohibited noxious weeds.*

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Austrian fieldcress	<i>Rorippa austriaca</i> (Crantz) Bess.
Field bindweed	<i>Convolvulus arvensis</i> L.
Hedge bindweed	<i>Convolvulus sepium</i> L.
Camelthorn	<i>Alhagi camelorum</i> Fisch.
Canada thistle	<i>Cirsium arvense</i> (L.) Scop.
Hairy whitetop	<i>Cardaria pubescens</i> (C.A. Mey.)
Hoary cress	<i>Cardaria draba</i> (L.) Desv.
Jointed goatgrass (only in small grain)	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i> L.
Perennial pepperweed	<i>Lepidium latifolium</i> L.
Perennial sowthistle	<i>Sonchus arvensis</i> L.
Quackgrass	<i>Agropyron repens</i> (L.) Beauv.
Russian Knapweed	<i>Centaurea repens</i> L.
Serrated tussock	<i>Nassella trichotoma</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i> Cav.
Sorghum perennial such as, but not limited to, johnsongrass, sorghum almum, and perenni- al sweet sudangrass	<i>Sorghum</i> spp.
Tansy ragwort	<i>Senecio jacobaea</i> L.
Yellow-flowering skeleton weed	<i>Chondrilla juncea</i> L.

WSR 89-07-030
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2772—Filed March 10, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to effective date of eligibility, amending WAC 388-84-115.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is to clarify the effective date of retroactive eligibility for medical assistance.

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

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

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

APPROVED AND ADOPTED March 6, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-84-115 EFFECTIVE DATE OF ELIGIBILITY. (1) *The effective date of eligibility for medical assistance shall be no ((~~tater~~)) earlier than the third month before the month of application provided:*

(a) *The medical services received were covered.*

(b) *Individual would have been eligible had he/she applied.*

(c) *The applicant met all eligibility factors in either chapter 388-83 ((~~or~~)), 388-92, or 388-99 WAC.*

(2) *((~~Eligibility~~)) The effective date of eligibility for medical assistance is the first day of the month if the individual ((~~was~~)) is eligible at any time during that month.*

(3) *The month of application for medical assistance for SSI beneficiaries ((~~for purposes of determining eligibility for medical assistance~~)) shall be the month they apply for SSI.*

WSR 89-07-031
EMERGENCY RULES
BOARD OF TAX APPEALS
[Order 89-01—Filed March 10, 1989]

Be it resolved by the Board of Tax Appeals, acting at Olympia, Washington, that it does adopt the annexed

rules relating to the repeal of WAC 456-08-003 and 456-08-004.

We, the Board of Tax Appeals, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is SHB 1754 amended RCW 82.03.140 and 84.08.130. The board's rules were changed to directly address those amendments. However, rules concerning computation of time and filing of the appeal needs to be amended to comply with the statutes to avoid confusion. This emergency rule is necessary until permanent rules under proposed chapters 456-09 and 456-10 WAC become effective, and chapter 456-08 WAC is repealed. See WSR 89-06-062, 89-06-063 and 89-06-064.

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

This rule is promulgated under the general rule-making authority of the Board of Tax Appeals as authorized in RCW 82.03.170.

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 March 10, 1989.

By Lucille Carlson
Chair

REPEALER

The following rules of the Washington Administrative Code are repealed:

WAC 456-08-003 TIME FROM WHICH APPEAL PERIOD IS COMPUTED

WAC 456-08-004 NOTICE OF APPEAL

WSR 89-07-032

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed March 10, 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 accreditation of environmental laboratories, adopting chapter 173-50 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 17, 1989.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is RCW 43.21A.230.

This notice is connected to and continues the matter in Notice No. WSR 89-04-052 filed with the code reviser's office on February 1, 1989.

Dated: March 10, 1989

By: Steve Hunter

Assistant Director

Central Programs and Enforcement

WSR 89-07-033

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 89-11—Filed March 10, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of whiting are available. The whiting survey on March 7 indicated a biomass of 13.4 million pounds of adult whiting. According to the management plan, a harvest of 2 million pounds is now justified. The survey also indicated large concentrations of small whiting in the Port Susan vicinity. These small fish are not marketable as human food. There is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 9, 1989.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-48-01700B PELAGIC TRAWL—SEASONS. *Notwithstanding the provisions of WAC 220-48-017 effective immediately until further notice, it is unlawful to fish for or possess bottomfish taken with pelagic trawl gear from Puget Sound Shellfish Management and Catch Reporting Areas 24B, 24C or 26A except as provided for in this section:*

Area 24C – South of a line from Lowell Point to Rocky Point Open 6:00 a.m. to 4:00 p.m., daily, Mondays through Thursdays.

*Area 24B – South of a line due east from Camano Head
Open 6:00 a.m. to 4:00 p.m., daily, Mondays through Thursdays.
Waters north of a line due east from Camano Head are closed to pelagic trawl fishing.*

*Area 26A – East of a line from Possession Point to Edwards Point
Open 6:00 a.m. to 4:00 p.m., daily, Mondays through Thursdays.*

WSR 89-07-034

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 10, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to adopt, amend, or repeal rules concerning prequalification of contractors, chapter 468-16 WAC;

that the agency will at 10:00 a.m., Monday, May 15, 1989, in the Boardroom, 1D 2, Transportation Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 47.01.101, 47.28.030 and 47.28.070.

The specific statute these rules are intended to implement is RCW 47.28.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 1, 1989.

Dated: March 10, 1989

By: Ed W. Ferguson
Deputy Secretary

STATEMENT OF PURPOSE

Title: Chapter 468-16 WAC, Prequalification of contractors.

Description of Purpose: The proposed rule implements RCW 47.28.070 relating to the prequalification of highway system contractors. The purpose of the statute and the implementing rule is to assure that each highway system construction or improvement contract will be awarded to a competent and responsible contractor.

Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070.

Summary of Rule: The rule establishes a process for an objective method for determining a contractor's qualifications for engagement in department work and for the retention of such qualifications. It further provides for the enhancement of the contractor's prequalification and bidding capacity through higher standards of performance. The rule increases the opportunity for better

cooperation between the department and the construction industry. The rule also provides for the award, denial, suspension, or revocation of qualification and for a hearing procedure for such actions.

Reason for Rule: The rule codifies existing and new procedures under which contractor prequalification will operate. It also provides an orderly and visible procedure for accomplishing the statutory purpose of assuring that highway system construction and improvement contracts will be awarded to responsible and competent bidders.

Agency Proposing Rule: Washington State Department of Transportation.

Department Personnel Responsible for Drafting and Implementation: Mr. Duane Berentson, Secretary of Transportation, Transportation Building, Olympia, Washington 98504, (206) 753-6054.

Agency Comments or Recommendations: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Not necessary because of federal law or federal or state court action.

Small Business Economic Impact Statement: Not required. The cost of prequalification under the proposed rules would impose no greater cost than they would incur in compliance with our current prequalification process.

Chapter 468-16 WAC
PREQUALIFICATION OF CONTRACTORS

WAC

468-16-010	General.
468-16-020	Purpose.
468-16-030	Definitions.
468-16-040	Criteria for a determination of an unsatisfactory record of performance.
468-16-050	Criteria for a determination of an unsatisfactory record of integrity.
468-16-060	Criteria for a determination of inability to comply with performance schedules.
468-16-070	Criteria for a determination of inadequate experience, organization, or technical qualifications.
468-16-080	Qualification procedures for projects under fifty thousand dollars.
468-16-090	Standard questionnaire.
468-16-100	Conditional qualification.
468-16-110	Joint ventures.
468-16-120	Work class ratings.
468-16-130	Prequalification work classes.
468-16-140	Maximum bidding capacity.
468-16-150	Prime contractor performance reports.
468-16-160	Interim reports.
468-16-170	Refusal to issue proposal.
468-16-180	Suspension of qualification.
468-16-190	Revocation of qualification.
468-16-200	Hearings procedure.
468-16-210	Prime contractor performance report (DOT 421-010).

NEW SECTION

WAC 468-16-010 GENERAL. No contract for the construction, improvement, or repair of any state highway, or of any other public highway to be awarded and administered by the department of transportation, may be awarded to any contractor who has not first been prequalified to perform the work. Bidding proposals will only be issued to prequalified contractors. Among the requirements for prequalification, but not limited to the following, are:

(1) The necessary organization, management, size of firm, and construction experience to accomplish the project to be undertaken including the availability of appropriate and adequate equipment for the quantity and type of work.

(2) A satisfactory performance record showing the additional ability to comply with requisite schedules taking into account all active contracts.

(3) Adequate financial resources.

(4) A showing of integrity, responsibility, and good judgment to include a history free of criminal convictions by the firm, its principals, and management.

NEW SECTION

WAC 468-16-020 PURPOSE. This chapter is promulgated to assure that contractors engaged in the improvement and construction of state highways possess the necessary qualifications as required by RCW 47.28.070. They are further intended to:

(1) Establish a process for an objective method for determining a contractor's qualifications for engagement in department work and for the retention of such capacity.

(2) Provide for contractors to enhance their prequalification and bidding capacities through higher standards of performance.

(3) Increase the opportunity for better cooperation between the department and the contracting industry.

(4) Provide for the award, denial, suspension, or revocation of qualification and for a hearing procedure, if required, for such actions.

NEW SECTION

WAC 468-16-030 DEFINITIONS. The definitions set forth in this section apply throughout this chapter and have the following meanings, unless the context clearly requires otherwise.

(1) Affiliate - An associate, subordinate associate, or subsidiary firm which may involve the intermingling of funds, officers, or directors of one or more firms.

(2) Bidding proposal - A form issued by the department for the submission of a contractor's bid containing spaces for entering bid amounts and authentication.

(3) Capacity multiplier - The number 5.0 multiplied by a firm's net worth to calculate maximum bidding capacity.

(4) Conditional qualification - A temporary qualification status given a contractor who has received "below average" or "inadequate" ratings or for other reasons which result in restrictions to a contractor's bidding.

(5) Contractor - Any person, partnership, firm, corporation or joint venture who or which, in the pursuit of an independent business, undertakes, offers to undertake, or submits a bid to perform construction work for the department.

(6) Contractor's prequalification - The process of reviewing a contractor's financial status, organizational structure, experience, equipment, integrity, and other qualities to determine responsibility and suitability for performing department work. This term is used interchangeably with qualification.

(7) Department - The department of transportation.

(8) Experience multiplier - A number established by ratio of performance inquiries rated satisfactory or above compared to the total inquiries received. The experience multiplier is used to determine work class and maximum capacity ratings of new applicants for qualification who have had no work experience with the department.

(9) Endorser - The district construction engineer or immediate supervisor of the project engineer, or under specified conditions, the district administrator responsible for reviewing contractor's performance reports.

(10) Inadequate - Not satisfying requirements, unacceptable.

(11) Integrity - The quality of being of sound moral principle, uprightness, honesty, and sincerity.

(12) Joint venture - A partnership of two or more persons, sole proprietorships, companies, corporations, or combinations thereof, entering into an agreement for the pursuance of a business venture such as a construction project.

(13) Limited work class - A work classification given when a contractor lacks the total experience or equipment required to perform the entire range of work within a work class.

(14) Maximum capacity rating - The total value of uncompleted work a contractor is permitted to have under contract at any time.

(15) Performance inquiry - A request made to a contractor's previous employers for an evaluation of that contractor's performance measuring the quality of contractor performance.

(16) Performance rating - A numerical rating used to measure and quantify the quality of contractor performance which is equal to the

grand total of the evaluation elements of the prime contractor's performance report.

(17) Performance score - The performance rating from the performance report multiplied by a numerical factor.

(18) Prime contractor performance report - A report prepared to evaluate the performance of a prime contractor upon completion of, or at an interim period during a department project used for establishing qualification ratings and for adjusting a prime contractor's qualification status.

(19) Project estimate - A document establishing the estimated value of all items of work, the total estimated value of work within each class of work, and the estimated total value of the project as determined by the contracting agency or owner.

(20) Rater - The individual, normally the project engineer, responsible for evaluation of the quality and manner of performance of a contractor in the completion of a project.

(21) Revocation of qualification - The act by which a contractor's qualification is terminated.

(22) Secretary - The secretary of transportation who may delegate his/her functions under this chapter to the state construction engineer or such other individual as deemed appropriate.

(23) Standard questionnaire - The application form completed by a contractor to present information relating to the applicant's financial status, experience, organization, and equipment for the purpose of becoming qualified to perform department work.

(24) State construction engineer - The primary representative of the secretary of transportation responsible for the highway construction program and for the qualification of contractors employed thereon.

(25) Suspension of qualification - The termination of a contractor's qualification for a specified period of time or until such time as the conditions which caused the termination no longer exist.

(26) Unsatisfactory - Not satisfactory. Under these rules equates with below average.

(27) Work class - A designation of a specific area of work within the various classifications of work, e.g., grading, draining, fencing, etc.

(28) Work class rating - The maximum value within a class of work which a contractor may bid upon in a single project.

NEW SECTION

WAC 468-16-040 CRITERIA FOR A DETERMINATION OF AN UNSATISFACTORY RECORD OF PERFORMANCE. Though not inclusive, the following is a list of elements which may be considered as cause for a determination that an unsatisfactory record of performance exists:

(1) Failure to complete project on time.

(2) Substandard workmanship.

(3) Nonadherence to the requirements of plans and specifications.

(4) Nonadherence to orders of the engineer.

(5) Disregard for the welfare or safety of traveling public.

(6) Willful disregard for applicable laws, rules, and regulations.

(7) Inadequate supervision and performance of subcontractors.

(8) Supervisors not sufficiently available on project site.

(9) Inadequate coordination and planning with owner.

(10) Inadequate procurement and delivery of supplies and materials.

(11) Inadequate control and utilization of equipment.

NEW SECTION

WAC 468-16-050 CRITERIA FOR A DETERMINATION OF AN UNSATISFACTORY RECORD OF INTEGRITY. Though not inclusive, the following shall be cause for a determination of an unsatisfactory record of integrity:

(1) Conviction of violating a federal or state antitrust law by bid-rigging, collusion, or restraint of competition between bidders; or conviction of violating any other bid related or contract related federal or state law. Conviction of a contractor's principal officers and agents of any such offenses will be imputed to the contractor.

(2) Willful concealment of any deficiency in the performance of a prior contract.

(3) Falsification of information or submission of deceptive or fraudulent statements in connection with prequalification, bidding, performance of a contract, or in legal proceedings.

(4) Debarment of the contractor by a federal or state agency for reasons indicating a lack of integrity.

NEW SECTION

WAC 468-16-060 CRITERIA FOR A DETERMINATION OF INABILITY TO COMPLY WITH PERFORMANCE SCHEDULES. Though not inclusive, the following shall be cause for a determination of an inability to comply with performance schedules:

- (1) A majority of inquiries of previous owners or employers reveal that projects have not been completed on time;
- (2) A major portion of projects completed for the department reveal that they have not been completed on time;
- (3) When two or more consecutive performance reports are rated inadequate in the areas of "progress"; or
- (4) When the contractor is behind schedule on two or more projects.

NEW SECTION

WAC 468-16-070 CRITERIA FOR A DETERMINATION OF INADEQUATE EXPERIENCE, ORGANIZATION, OR TECHNICAL QUALIFICATIONS. When data presented to establish qualification reveal:

- (1) A lack of prior experience in the classes of work for which qualification is sought.
- (2) That supervisory experience of key personnel over projects has been below average to an extensive degree.
- (3) That permanent employment status of key supervisory personnel has not been of a duration of at least one year.
- (4) That two or more performance reports or inquiries rendered within a one-year period are below average in the areas of administration/management/supervision or quality of work.
- (5) That previous experience in a work class presented for qualification was below the department's standards.
- (6) That work claimed by the contractor was completed by others.

NEW SECTION

WAC 468-16-080 QUALIFICATION PROCEDURES FOR PROJECTS UNDER FIFTY THOUSAND DOLLARS. (1) Contractors may be qualified by district administrators for projects valued under fifty thousand dollars.

- (2) Procedures for letting district level projects valued under fifty thousand dollars are published in Department Directives.
- (3) A limited prequalification questionnaire and other requirements are prescribed in WAC 468-14-040.

NEW SECTION

WAC 468-16-090 STANDARD QUESTIONNAIRE. The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: State construction engineer. The questionnaire shall include the following information:

- (1) The contractor's name, address, phone number, and type of organization (corporation, partnership, sole proprietorship, etc.).
- (2) A list of the classes of work for which the contractor seeks qualification.
- (3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated companies or subsidiaries.
- (4) A certificate of authority from the office of the secretary of state to do business in Washington state if applicant is a foreign corporation.
- (5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with that firm.
- (6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the three years preceding application. The contract amount, contract number, date of completion, class of work, and the name, mailing address, and phone number of the project owner or agency representative must be provided. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five projects must be listed.
- (7) Personnel requirements.
 - (a) A listing of the principal officers and key employees indicating their years of experience engaged in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought. The loss of

such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel deemed proper for making its determination. The firm's performance on department contracts must be currently rated average or better.

(b) A firm must have, within its own forces, qualified full time personnel having the skills and experience, including technical or specialty licenses, for each work class in which prequalification is sought. The skills and experience must be documented by education and practical experience on completed construction projects.

(8) A list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(9) A financial statement.

(a) For a financial statement showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the questionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

(b) Financial statements must reflect at least the following minimums:

(i) A ratio of total current assets to total current liabilities of greater than 1.0.

(ii) A ratio of cash and accounts receivable to total current liabilities of greater than 1.0.

(iii) A ratio of net fixed assets to net worth of less than 2.3.

(iv) A ratio of total liabilities to net worth of less than 4.0.

(10) A wholly-owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (9) of this section must be fulfilled.

(11) The applicant shall list any of the following which have occurred within the previous three years:

(a) Any instances of having been denied qualification or having been deemed other than responsible by any governmental agency.

(b) Any convictions involving moral turpitude and all felony conviction of the firm, its directors, or principal officers.

(c) Any liens, stop work orders, or claims filed against the contractor on any project.

(d) Any failures to complete a contract.

(e) Any adjudicated noncompliance with pertinent statutes.

(12) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department and sworn to before a notary public or other person authorized to take oaths.

(b) As a general rule, a standard questionnaire, will be examined and a written notice provided the applicant stating whether the applicant has been prequalified or qualification has been denied within thirty days of its receipt. The applicant will be advised of errors or omissions and a request made for additional information as necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification awarded may request, in writing, a review of their questionnaire and qualification ratings. The request must be filed within fifteen calendar days of the date of the notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(13) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submitted in the questionnaire

will be used for the contractor's initial prequalification, work class authorization, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus one calendar quarter as established by the year-end financial statement. Prequalification will be renewed annually thereafter or at other times when appropriate.

(b) A standard questionnaire from a contractor not previously qualified under this chapter must have been received by the department no less than fifteen calendar days prior to a bid opening to receive consideration for issuance of a bidding proposal for that bid opening.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared void and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualifications.

(i) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(14) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification shall not be made available for public inspection and copying pursuant to RCW 42.17.310 (1)(m). The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(15) Qualified contractors will be provided with notices which list projects currently being advertised. Distribution of these notices will cease when a contractor exhibits no interest in department work for a period of three months.

NEW SECTION

WAC 468-16-100 **CONDITIONAL QUALIFICATION.** (1) A contractor may be qualified conditionally when performance has become inadequate in any of the four rated areas on a current project or when he or she has been rated inadequate on a performance report for a recently completed project. When conditionally qualified, a contractor may receive bidding proposals on a project by project basis at the discretion of the secretary.

(2) The future status of a conditionally qualified contractor will be determined by the interim rating or regular performance rating given for the project in question or for the first project completed for the department subsequent to the firm's having been placed in conditional status. Should the interim rating or regular performance rating be less than average, the contractor's prequalification will be suspended in accordance with WAC 468-16-180.

NEW SECTION

WAC 468-16-110 **JOINT VENTURES.** (1) Joint ventures are prequalified under two categories as follows:

(a) Individual project joint venture - An association of two or more firms formed for the specific purpose of submitting a bid on a specific project.

(i) All firms must be individually prequalified.

(ii) The firms must file an "individual project statement of joint venture."

(b) Continuing joint venture - An association of two or more firms formed for the purpose of submitting bids for projects to be let over a period of time.

(i) All firms must be individually prequalified.

(ii) The firms must file a "statement of continuing joint venture."

(iii) Continuing joint ventures must maintain an average or higher performance rating in order to remain qualified.

(iv) A rating of less than average will cause the joint venture's qualification to be suspended or revoked as deemed appropriate by the secretary.

(2) A standard questionnaire and financial statement for each member, if not on file, and a standard questionnaire and financial statement designating the assets and liabilities of the venture shall be submitted for the joint venture with copy of the joint venture agreement. The agreement shall specify the name under which the joint venture will operate and the names of those individuals authorized to sign proposals, contracts, and other documents on behalf of the joint venture. It shall contain provisions which will unequivocally bind the parties, jointly and severally, to any contract entered into thereunder.

NEW SECTION

WAC 468-16-120 **WORK CLASS RATINGS.** (1) Qualification shall be granted a contractor in one or more classes of work which the firm has shown the capability to satisfactorily perform with its own forces.

(2) The department's project estimate shall be the only estimate used to determine the value of the various classes of work within a project for determining a contractor's eligibility to bid that specific project. The contractor will be required to perform a specified percentage of the total work within the estimate as provided in the current issue of the Standard Specifications.

(3) Contractors will be given work class ratings on the basis of their financial status, performance record, previous experience, organization, and condition and suitability of equipment. Higher performance ratings result in higher work class ratings.

(4) Data provided by project owners, other than the department, in inquiries made concerning applicants seeking qualification, shall be used to determine initial work class ratings and maximum capacity ratings. The applicant's experience multiplier shall be used to calculate the applicant's initial work class rating. Initial work class ratings for new applicants and those of firms which have not renewed their qualification within two years, will be based on performance ratings provided by agencies having previously employed the applicant. Such other ratings as the department may have on file may also be used. Work submitted by the applicant and verified by the department will be given a work class rating equal to 2.5 times the highest value of the work the contractor has completed within that work class multiplied by the performance rating given by the agency or owner. Work reported as marginal or below average will not be accepted for qualification purposes, but shall be included with other reported performance ratings in determining the experience multiplier within the respective work class.

(5) Work class ratings shall be recomputed annually, effective with the date of renewal of qualification. Work class ratings for contractors active in department work shall be established annually by multiplying the highest value of the work class within a satisfactorily completed project by the average annual performance ratings received for projects comprised to a major degree by that work class, provided that the currently established work class rating is not higher. In that event, the currently established work class multiplied by the performance rating shall become the work class rating for the ensuing qualification year. Work class ratings will not change if the contractor has not performed in that work class during the rating year. A previously awarded work class rating will be adjusted by application of the performance rating.

NEW SECTION

WAC 468-16-130 **PREQUALIFICATION WORK CLASSES.** A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its proven ability to perform the work class sought.

- | | |
|---------|--|
| Class 1 | CLEARING, GRUBBING, GRADING & DRAINING
Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, and the placement of drainage structures. |
| Class 2 | PRODUCTION AND PLACING OF CRUSHED MATERIALS
Production and placing crushed surfacing materials and gravel. |

Class 3	BITUMINOUS SURFACE TREATMENT Placing of crushed materials with asphaltic application.	Class 28	ELECTRONICS Surveillance and control systems design and installation, electronics training and maintenance.
Class 4	ASPHALT CONCRETE PAVING Production and placing Asphalt Concrete Plant Mix Pavement.	Class 29	SLURRY DIAPHRAGM AND CUT-OFF WALLS Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.
Class 5	CEMENT CONCRETE PAVING Production and placing cement concrete pavement.	Class 30	NOT USED
Class 6	BRIDGES AND STRUCTURES Construction of bridges, walls and other major structures of timber, steel, and concrete.	Class 31	WATER DISTRIBUTION AND IRRIGATION Irrigation systems and heavy duty water distribution.
Class 7	BUILDINGS Construction of buildings and related structures within the right of way and major reconstruction and remodeling of such buildings.	Class 32	LANDSCAPING Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.
Class 8	PAINTING Painting bridges, buildings, and related structures.	Class 33	NOT USED
Class 9	TRAFFIC SIGNALS Installation of traffic signal and control systems.	Class 34	EROSION CONTROL Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.
Class 10	TUNNEL CLEANING Tunnel tile cleaning.	Class 35	PRECAST MEDIAN BARRIER A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.
Class 11	GUARDRAIL Construction of a rail secured to uprights and erected along the exposed sides and ends of platforms or as a barrier between, or beside lanes of a highway.	Class 36	PERMANENT TIE BACK ANCHOR Installation of permanent rock and soil anchors, soldier piles and timber lagging. Soldier pile tie back anchor wall construction.
Class 12	PAVEMENT MARKING (EXCLUDING PAINTING) Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts.	Class 37	IMPACT ATTENUATORS Installation of approved protective systems filled with sand, water, or foam which prevent errant vehicles from impacting roadside hazards.
Class 13	DEMOLITION Removal of timber, steel, and concrete structures and obstructions.	Class 38	PAINT STRIPING Painted bars, letters, symbols, and striping.
Class 14	DRILLING AND BLASTING Controlled blasting of rock, dirt, and obstructions by means of explosives.	Class 39	WIRE MESH SLOPE PROTECTION The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway.
Class 15	SEWERS AND WATER MAINS Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping station, pressurized lines.	Class 40	GABION AND GABION CONSTRUCTION Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.
Class 16	ILLUMINATION & GENERAL ELECTRICAL Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.	Class 41	NOT USED
Class 17	CEMENT CONCRETE CURB AND GUTTER Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.	Class 42	NOT USED
Class 18	ASPHALT CONCRETE CURB AND GUTTER Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.	Class 43	MECHANICAL Plumbing work and the installation of heating or air conditioning units.
Class 19	RIPRAP AND ROCK WALLS Mortar rubble masonry walls, rock retaining walls, and the placing of large broken stone on earth surfaces for protection against the action of water.	Class 44	NOT USED
Class 20	CONCRETE STRUCTURES EXCEPT BRIDGES Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.	Class 45	NOT USED
Class 21	TUNNELS AND SHAFT EXCAVATION Tunnel excavation, rock tunneling, and soft bore tunneling.	Class 46	CONCRETE RESTORATION Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.
Class 22	PILED DRIVING Driving concrete, steel, and timber piles.	Class 47	CONCRETE SAWING, CORING, AND GROOVING Concrete sawing, concrete planing and grooving, bump grinding, joint repair, concrete coring.
Class 23	CONCRETE SURFACE TREATMENT Exposed aggregate, fractured-fin and rope textured finished waterproofing concrete surfaces (clear or pigmented sealer).	Class 48	DREDGING Excavating underwater materials.
Class 24	FENCING Wire and metal fencing, glare screens.	Class 49	MARINE WORK Underwater surveillance, testing, repair, subaquatic construction.
Class 25	BRIDGE DECK REPAIR Bridge expansion joint repair and modification, bridge deck resurfacing and repair.	Class 50	NOT USED
Class 26	DECK SEAL Waterproof membrane.	Class 51	NOT USED
Class 27	SIGNING Sign structures and signs.	Class 52	NOT USED
		Class 53	NOT USED
		Class 54	RAILROAD CONSTRUCTION Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.
		Class 55	STEEL FABRICATION Welding of steel members, heat straightening steel.

Class 56	STREET CLEANING Street sweeping with self-propelled sweeping equipment.
Class 57	MATERIALS TRANSPORTING Truck hauling.
Class 58	SAND BLASTING Steam cleaning, sand blasting.

NEW SECTION

WAC 468-16-140 MAXIMUM BIDDING CAPACITY. (1) Ratings given by owners, other than the department, in inquiries made concerning applicants shall be used to determine maximum capacity ratings. The applicant's experience multiplier or annual performance score shall be used as a multiplier to calculate the maximum capacity rating. Higher experience multipliers and performance scores increase the maximum capacity rating. The following are examples of methods of computing maximum bidding capacity (MBC):

(a) Initial applications - Multiplying the experience multiplier (EM) times a capacity multiplier of 5.0 times the applicant's net worth (NW). (ER x 5.0 x NW = MBC).

(b) Renewal of qualification - Multiplying the department's average annual performance rating score (PR) times the capacity multiplier of 5.0 times the applicant's net worth (NW). (PR x 5.0 x NW = MBC). For those renewals with no prior department work, calculate as for initial applicants.

(2) For the purpose of prequalification and establishing the maximum capacity rating, the following additional resources may be added to net worth if supported with documentation as specified:

(a) An operating line of credit - Documentation from an acceptable financial institution stating the amount of credit authorized, its expiration date, and the amount currently available. The document must be authenticated by an official authorized to execute lines of credit on behalf of the institution.

(b) A parent firm pledge of net worth - A sworn statement from the parent firm that guarantees the performance of the subsidiary for any contracts awarded it. The maximum bidding capacity will be adjusted annually in the same manner as for work class ratings in WAC 468-16-120. The document shall include a parent firm pledge in an amount such that when multiplied by the capacity multiplier will not be less than the value of uncompleted contracts of the subsidiary.

(c) A personal pledge of net worth - A sworn statement pledging a specific amount of personal assets. The statement must be accompanied by a balance sheet reflecting current assets, liabilities and net worth, and documentation of assets by copies of real estate tax assessments, bank and stock certificates, property deeds, or other proof that will verify the ownership and value of the assets.

(3) The additional resources listed above will not be accepted in lieu of a minimum net worth of fifty thousand dollars.

(4) When the contract total of a bid received is added to the value of uncompleted work and that total exceeds the bidder's maximum bidding capacity, the bid may be rejected.

NEW SECTION

WAC 468-16-150 PRIME CONTRACTOR PERFORMANCE REPORTS. (1) Performance reports described in this section will be completed for prime contractors only. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be stated in Section I of the report by listing the major types of work performed by the contractor e.g., clearing, grading, surfacing, etc., as stated on the bidding proposal.

(2) Performance will be rated under the following areas: Administration, management, and supervision; quality of work; progress of work; and equipment.

(3) The following adjectival ratings are defined and established for performance reports:

(a) Superior - Preeminent performance, generally at a higher level than that of others.

(b) Above average - Performance within the spectrum ranging from average to the lower range of superior.

(c) Average - Performance that is equated with satisfactory and is considered sufficient to meet the demand, need, or requirement.

(d) Below average - Performance generally considered marginal or barely within the lower expected and acceptable standards.

(e) Inadequate - Performance failing completely to meet the prescribed standards.

(4) The report shall contain a numerical section which quantifies the adjectival ratings into a total performance score which is multiplied by .001 to obtain a performance rating falling within one of the following ranges:

Superior	1.500 - 2.000
Above Average	1.001 - 1.499
Average	1.000
Below Average	0.500 - 0.999
Inadequate	0.000 - 0.499

(5) The performance rating (PR) is computed by multiplying the performance score (PS) obtained from the contractor's performance report by a factor (F) of .001 e.g. 1685 (PS) x .001 (F) = 1.685 (PR).

(6) The annual performance score is the average of the scores, classified by work class, obtained from all performance reports submitted for department projects completed during the one-year period next preceding the date of expiration of the contractor's qualification.

(7) The annual performance score shall be used to compute the bidder's work class ratings and maximum capacity rating.

(8) The report shall contain a narrative section which verbally provides the details for the rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily reports and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.

(9) The performance report will be prepared by the project engineer who will include numerical and ratings substantiated by comments which illustrate the contractor's typical performance.

(10) The report will be endorsed by the district construction engineer who will provide a copy to the contractor and discuss all below average and inadequate ratings with its representative.

(11) The district administrator will review all contractor performance reports after they have been endorsed. The district administrator will enter comments thereon only when the contractor has been rated below average, inadequate, or superior.

(12) Performance reports will be completed and submitted to the secretary, Attn: State construction engineer, not later than thirty calendar days following completion of the project.

(13) The contractor may appeal the rating to the district administrator in writing within ten calendar days of the date of the report. The appeal must set forth the basis upon which it has been made.

(14) As a rule, within ten calendar days of receipt of an appeal, the district administrator shall review the appeal and provide a written response to the contractor with a copy to the secretary.

(15) Upon receipt of a copy of the district administrator's response, the secretary, if the performance report rated the contractor's performance as inadequate or below average, shall appoint a committee of three individuals who are not connected with the project to review the response and the performance report. The review shall consider the objectivity, accuracy, and completeness of the report. The board shall use the project engineer's diary, the inspector's journal, and other written documentation as a basis for their determination and written recommendations which shall be submitted to the secretary within fifteen calendar days of their appointment.

(16) The committee's report will be used as advisory information if further appeal is made to the secretary and will be used for such other purposes deemed proper by the secretary.

(17) Further appeal may be made by the contractor in writing to the secretary within ten calendar days of the date of receipt of the district administrator's response forwarded by certified mail. The secretary will consider the appeal within thirty calendar days of its receipt. The contractor or representative may present information in person to the secretary. The secretary shall notify the respondent of the decision within ten calendar days of completion of the review. This shall be the final administrative act of the department provided, however, that if an action is brought within ten calendar days challenging the secretary's decision, that decision shall be subject to the scope of judicial review provided in such cases under Washington case law.

NEW SECTION

WAC 468-16-160 INTERIM REPORTS. (1) Interim performance reports will be completed for contracts of long duration, particularly those in excess of one year. They will be completed annually on the anniversary of the start date of the contract or whenever the contractor's work has become inadequate and the firm has been advised in

writing of such performance. The report will be used as a basis for determining whether a contractor will be placed under conditional status.

(2) An interim report shall cover a period of not less than two months. The report shall contain narrative comments relating to at least the following:

- (a) Whether the contract is on schedule.
- (b) Quality of the work.
- (c) Details of any delays.
- (d) Whether any money has been withheld by the state.
- (e) Whether any claims, liens, or stop notices are filed against the project.
- (f) Supervisory ability and cooperative attitude of contractor's officers and supervisory personnel.
- (g) Any appropriate details as required in a final report.

NEW SECTION

WAC 468-16-170 REFUSAL TO ISSUE PROPOSAL. Refusal of proposal issuance may continue until the cause for such refusal has been eliminated. One or more of the following conditions may be considered sufficient for refusal to issue a proposal:

- (1) When the value of outstanding work plus the contract total of the work proposed to be bid exceeds the contractor's maximum capacity rating.
- (2) Failure to maintain satisfactory progress or quality of workmanship on projects in progress for a period of more than two months, excluding authorized periods of suspension, following notification thereof.
- (3) Being placed in conditional status.
- (4) Making false, fraudulent, or deceptive statements on the standard questionnaire, related documents, or documents prepared in the course of prosecuting the work.
- (5) Debarment or suspension from participation in federal projects or projects of other states.
- (6) Expiration of qualification.
- (7) Failure to update the latest questionnaire to fairly represent the contractor's current organization and financial status.
- (8) Noncompliance with equal employment opportunity (EEO) or minority and women's business enterprise (MWBE) regulations.
- (9) The existence of any conditions described in WAC 468-16-040 through 468-16-070 inclusive.

NEW SECTION

WAC 468-16-180 SUSPENSION OF QUALIFICATION. (1) A suspension may be ordered for cause or for a period pending the completion of investigation and any ensuing legal action for revocation of qualification.

- (2) The secretary may, upon determination from reports, other documents, or investigation that cause exists to suspend the qualification of a contractor, impose suspension upon the contractor.
- (3) The secretary may find the following acts or deficiencies causes for suspension of qualification:
 - (a) Incompetency found detrimental to timely project completion or to the safety of the public or employees.
 - (b) Recurring instances of inadequate or improper equipment usage which resulted in project delays, inefficient operations, or safety hazards.
 - (c) Contemptuous or abusive acts or attitude toward the owner or owner representatives.
 - (d) Inadequate performance on one or more projects.
 - (e) Infractions of rules, regulations, specifications, and instructions which may adversely affect public health, welfare, and safety.
 - (f) Uncompleted work which might prevent the prompt completion of other work.
 - (g) Failure to submit documents required by the contract within prescribed time limits.
 - (h) Failure to refund overpayments.
 - (i) Failure to comply with equal employment opportunity or women's, minority and disadvantaged business enterprise requirements.
 - (j) Debarment or suspension from participation in federal projects or projects of other states.
 - (k) Pending completion of debarment proceedings in federal projects or projects of other states.
- (4) Maximum periods of suspension for acts or deficiencies enumerated in subsection (3)(a) through (k) of this section are as follows:
 - (a) For subsection (3)(a), (b), (c), and (g) of this section - Two months.

(b) For subsection (3)(d), (e), (f), (h), and (i) of this section - Three months.

(c) For subsection (3)(j) of this section - For duration of debarment or suspension by the federal or other state agency.

(d) For subsection (3)(k) of this section - Until a determination is made by the federal or other state agency.

(5) The secretary may reduce the period of suspension upon the contractor's supported request for reasons including, but not limited to:

- (a) Newly discovered evidence;
- (b) Elimination of causes for which the suspension was imposed.
- (6) The secretary's suspension may include all known affiliates of the contractor.

NEW SECTION

WAC 468-16-190 REVOCATION OF QUALIFICATION. (1) The secretary, upon determination from reports, other documents, or investigation that cause exists to revoke the qualification of a contractor, may revoke the contractor's qualifications for a maximum period of two years.

(2) The secretary may revoke the qualification of a contractor upon a plea by the firm or any of its officers of nolo contendere, conviction, judgment, or admission for any of the following causes:

- (a) Conviction of embezzlement, theft, forgery, bribery, or perjury.
- (b) Falsification or unauthorized destruction of records.
- (c) Violation of laws indicating lack of business integrity or honesty which has a direct, detrimental effect on the present responsibility of the contractor.
- (d) Fraud, collusion, or any criminal offense in connection with obtaining a state or federal contract.
- (e) Violation of federal or state antitrust laws.
- (f) Violation of laws governing hours of child labor, labor, minimum and prevailing wages.

(3) Revocation of qualification may also be under taken for the following reasons:

- (a) Default on a contract within three previous years.
- (b) Willful failure to perform in accordance with the contract plans and specifications which may have potential detrimental effects on public safety.
- (c) Bankruptcy or insolvency.
- (d) Breach of contract.
- (e) Grossly inadequate performance.
- (f) Having been suspended two or more times within a two-year period.
- (4) A contractor shall be required to reapply upon again reaching eligibility status when qualification has been revoked.
- (5) Revocation of qualification becomes final after ten calendar days following the effective date unless a hearing has been requested.
- (6) The secretary may reverse the decision to revoke qualifications upon the contractor's supported request for reasons including, but not limited to:
 - (a) Newly discovered evidence;
 - (b) Reversal of the conviction or judgment upon which the revocation was based; and
 - (c) Elimination of causes for which the revocation was imposed.
- (7) The secretary's revocation may include all known affiliates of the contractor.

NEW SECTION

WAC 468-16-200 HEARINGS PROCEDURE. (1) A contractor who has been notified by the secretary that the department is contemplating suspending or revoking the qualification of the firm may request, by written notification to the secretary within fifteen calendar days of the secretary's notification, that a hearing be conducted. Unless the department is otherwise prohibited from contracting with the contractor, the suspension or revocation shall not become effective until the final decision of the secretary under this section. The hearing shall be conducted in accordance with the procedure set forth in this section.

(2) The secretary shall designate a hearing official to conduct any hearing held under this chapter. The hearing official shall furnish written notice of a hearing to the contractor and any named affiliates at least ten calendar days before the effective date of suspension or revocation of qualifications. The notice shall state:

- (a) That suspension or revocation of qualification is being considered.
- (b) The effective date of the proposed action.
- (c) The facts giving cause for the proposed action.

(d) The cause or causes relied upon for proposing the action, i.e., fraud, statutory violations, etc.

(e) If suspension is proposed, the duration of the suspension.

(f) That the contractor may, within twenty calendar days of receipt of the notice, submit to the hearing official in writing, information and argument in opposition to or clarification of the proposed action.

(g) That, except when the action is based on a conviction, judgment, or admission, fact-finding shall be conducted if the hearing official determines that the contractor's submission raises a genuine dispute over material facts upon which the suspension or revocation is based or whether the causes relied upon for proposing suspension or revocation exist.

(h) The time, place, and date of the hearing.

(i) The name and mailing address of the hearing official.

(j) That contracts shall not be awarded to the contractor subsequent to the dispatch of the notice of hearing pending the final decision of the secretary.

(3) The hearing official may extend the date of any hearing upon request of the contractor, but the hearing shall not be extended beyond forty-five calendar days from the date of the notice. The hearing official shall schedule and conduct the hearing within thirty calendar days of the date of the notice, except when an extension is granted as provided in this subsection.

(4) In the course of the hearing, the hearing official shall:

(a) Regulate the course and scheduling of the hearings;

(b) Rule on offers of proof, receive relevant evidence, and accept the proof and evidence as part of the record;

(c) Take action necessary to insure an orderly hearing; and

(d) At the conclusion of the hearing, issue written findings of fact and recommended administrative action to the secretary. The hearing officer shall deliver the entire record to the secretary.

(5) The contractor shall have the opportunity to be present and appear with counsel, submit evidence, present witnesses, and cross-examine all witnesses. A transcribed or taped record shall be made of the hearing unless the secretary and the contractor waive the transcript or taping requirement. The transcript or tape shall be available to the contractor and all named affiliates upon request at cost.

In actions where it has been established by conviction, judgment or admission, or where it has been established by findings made in accordance with this chapter, that the named contractor has engaged in conduct described in WAC 468-16-050 and the sole issue before the hearing official is the appropriateness of revocation of qualification or the length of suspension of qualification to be recommended to the secretary, prior judicial or administrative decision or findings shall not be subject to collateral attack.

The secretary, after receiving the record, findings of fact, and recommendations of the hearing official shall determine the administrative action to be taken. The secretary shall notify the contractor of his determination in writing.

Upon denial, suspension or revocation of prequalification, the respondent may appeal therefrom to the superior court of Thurston County pursuant to RCW 47.28.070. If the appeal is not made within that time, the department's action is conclusive.

NEW SECTION

WAC 468-16-210 PRIME CONTRACTOR PERFORMANCE REPORT (DOT 421-010).

PRIME CONTRACTOR PERFORMANCE REPORT

SECTION I CONTRACTOR DATA			SECTION II PROJECT DATA			
REPORT TYPE <input type="checkbox"/> INTERIM <input type="checkbox"/> FINAL	DATE	CONTRACTOR NO. (HQ Use Only)	DISTRICT	CONTRACT NO. FA NO.	COUNTY	SR
COMPANY NAME			PROJECT TITLE			
PRINCIPAL		SUPERINTENDENT	SCHEDULED COMPLETION		DATE OF ACTUAL COMPLETION	
FOREMEN			CONTRACT AWARD AMOUNT		CONTRACT COMPLETION AMOUNT	
PROJECT DESCRIPTION						
SPECIFIC WORK PERFORMED BY CONTRACTOR						

SECTION III NUMERICAL RATING

A ADMINISTRATION/MANAGEMENT/SUPERVISION	* INADEQ.	* BELOW AVG	AVG	ABOVE AVG	* SUPERIOR	RATING
1 Anticipation of problems, making adjustments and altering actions.	0	30	60	90	120	
2 Effectiveness of on-site supervision	0	27	55	83	110	
3 Effectiveness of coordination and communication with subcontractors and suppliers	0	23	45	67	90	
4 Attention to public safety and traffic control	0	20	40	60	80	
5 Compliance with laws, ordinances and regulations	0	18	35	52	70	
6 Maintenance of employee safety standards	0	17	35	52	70	
7 Availability of responsible representatives for instructions and decision making	0	18	25	38	50	
8 Adequacy and timeliness of progress schedules	0	10	20	30	40	
9 Cooperation with Department personnel relating to project matters	0	10	20	30	40	
10 Compliance with EEO and affirmative action requirements	0	8	15	23	30	
11 Compliance with Minority/Disadvantaged/ and Women's Business requirements	0	7	15	23	30	
12 Positive public relations with the general public, other agencies and adjacent contractors.	0	7	15	23	30	
13 Accurate and timely contract changes, payment documents, reports and other documents	0	5	10	15	20	
14 Effective home office support	0	5	10	15	20	
TOTAL	0	200	400	600	800	
Q QUALITY OF WORK						
1 Adherence to plans and specifications	0	50	100	150	200	
2 Workers oriented to producing quality work	0	40	80	120	160	
3 High standards of workmanship by contractor	0	40	80	120	160	
4 Diligence in completing final (punch-list) work	0	20	40	60	80	
TOTAL	0	150	300	450	600	
P PROGRESS OF WORK						
1 Effective utilization of personnel	0	30	60	90	120	
2 Effective operation and utilization of equipment	0	30	60	90	120	
3 Effective delivery of materials and supplies	0	20	40	60	80	
4 Effective scheduling and pursuing work in a timely manner	0	15	30	45	60	
5 Completion of project as scheduled	0	5	10	15	20	
TOTAL	0	100	200	300	400	
E EQUIPMENT						
1 Appropriate use of equipment	0	13	25	38	50	
2 Condition and maintenance of equipment	0	13	25	38	50	
3 Appropriate type for project	0	12	25	37	50	
4 Appropriate quantity for project	0	12	25	37	50	
TOTAL	0	50	100	150	200	
GRAND TOTAL (A+Q+P+E) (Performance Score)	0	500	1000	1500	2000	

* Explain any inadequate, below average or superior ratings in narrative section.

DOT 421-010 (Pg 1 Front)
1/89

DISTRIBUTION: White - District Administrator
Canary - HQ Construction

Pink - HQ Construction (Prequal.)
Goldenrod - Project Engineer

PERFORMANCE RATING



SECTION IV NARRATIVE RATING

A GENERAL ELEMENTS Enter comments which generally describe the contractor's performance.

Lined area for general elements comments.

B BELOW AVERAGE ELEMENTS Enter comments here to substantiate below average ratings. (See instructions)

Lined area for below average elements comments.

C SUPERIOR ELEMENTS Enter comments here to substantiate superior ratings. (See instructions)

Lined area for superior elements comments.

SECTION V AUTHENTICATION AND REVIEW

I certify that I have objectively prepared this report basing it upon data contained in available project records.

PROJECT ENGINEER _____ DATE _____

I have given a copy of this report to the rated contractor this date and I have advised the contractor that any appeal must be made within 10 calendar days.

I have reviewed this Prime Contractor Performance Report for objectivity and accuracy and make the following comments and/or recommendations:

Lined area for comments and/or recommendations.

CONSTRUCTION ENGINEER _____ DATE _____

I have reviewed this Performance Report

DISTRICT ADMINISTRATOR _____ DATE _____

INSTRUCTIONS

Section I CONTRACTOR DATA

This section denotes the type report being submitted and provides data relating to the contracting firm, its status, principals and supervisors. Interim reports must be submitted annually on the anniversary of the project start date for all projects exceeding a duration of one year.

Section II PROJECT DATA

This section provides basic project data to assist those reviewing or otherwise using the report to place this evaluation in proper perspective with regard to project size, complexity and completion time. Under (*Specific Work Performed by Contractor*) list such work using the general headings used in the proposal (e.g. *preparation, grading, structure, asphalt concrete paving etc.*)

Section III NUMERICAL RATING

This section contains the four weighted rating areas of (A) Administration/Management and Supervision, (Q) Quality of Work, (P) Progress of Work and (E) Equipment. Each area contains statements which are weighted as to their importance within the rating area. The rater must consider the contractor's merits in relation to each statement by checking the adjectival rating space that best describes the contractor's performance for each statement and by assigning an appropriate numerical score in the RATING column. The rater must enter the chosen score for each statement under the heading RATING, total each area and enter the grand total of all scores. The rater must be as objective as possible. There is only one value for the rating of Average, therefore a continuum exists between those contractors slightly below average through slightly above average. Average is equated with satisfactory (Satisfactory is defined as the performance sufficient to meet the demand, need or requirement). Those statements warranting an inadequate, below average or superior rating require justification in the narrative section of the report. If more space is needed, use additional sheets.

Section IV NARRATIVE RATING

This section is divided into three parts.

- A General Elements - Make any general statements pertinent to reporting the contractors work activity, e.g. innovativeness in performing the work and any other noteworthy contractor activities.
- B Below Average Elements - List any actions or activities which substantiate a numerical rating for each statement falling within the range of inadequate or below average. Each comment must be correlated to identify the rating area and statement number. Each comment must be related to substantiating data reported during the life of the project in the Inspector's Daily Report, Project Engineer's Diary, correspondence or other pertinent records. This data must be available as a part of the administrative record for hearings or litigation.
- C Superior Elements - Make supportive comments for superior ratings. Although the detail of substantiation by recorded data is not required as for inadequate or below average ratings, such data also should be available.

Comments made in response to A, B, and C above should make reference to documented activities that describe the typical performance of the contractor.

If additional space is needed for the narrative report, use additional sheets.

Section V REVIEW AND AUTHENTICATION

This section provides for the recording of the review and authentication of the report by the rater, endorser and reviewer. Its purpose is to verify that the contractor has been given a copy of the report and that the contractor is aware of his right to comment on it. It also serves the purpose of verifying that the report has been reviewed for the purposes of assuring objectivity in its preparation and for the elimination of the influences of personalities. The report will be reviewed by the District Administrator when the overall rating is inadequate, below average or superior. The completed report is to be forwarded to the Secretary (ATTN: State Construction Engineer) to arrive not later than 30 calendar days after project completion.

WSR 89-07-035
ADOPTED RULES
DEPARTMENT OF LICENSING
 [Order PFT 89-03—Filed March 10, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to reciprocity and proration, amending WAC 308-91-040, 308-91-050 and 308-91-140.

This action is taken pursuant to Notice No. WSR 89-02-063 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 46.87.080, 46.87.130, 46.87.140, 88.44.060 [82.44.060] and 82.44.100 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 46.87.010(2) which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 46.87 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 March 9, 1989.

By Mary Faulk
 Director

Chapter 308-91 WAC
RECIPROCITY AND PRORATION
 ((Formerly chapter 410-16 WAC))

AMENDATORY SECTION (Amending Order PFT 8803, filed 3/2/88)

WAC 308-91-040 GENERAL PROVISIONS. (1) Fleet composition. Carriers may separate their commercial or apportionable vehicles into two or more fleets if such divisions are consistent with their operational practices, by reason of equipment design, or restrictions imposed by member jurisdictions.

(2) Records substantiating the latest purchase cost or price and year of purchase of each vehicle in the fleet must be retained for the period specified in RCW 46.87.310 and made available to the department upon request.

(3) Filing and compliance dates. Proportional registration annual renewal applications must be filed with the prorate section of the department on or before December 1 of the year immediately preceding the year in which proportional registration is sought to insure timely issuance of identification for the new registration year. No temporary operating authority will be issued for renewal vehicles if the renewal application is received by the department after the above date. Washington proportional registrations expire at midnight, December 31st of each registration year; however, vehicles undergoing renewal processing and for which renewal fees and

taxes have been received by the department prior to the beginning of the registration year, will have until March 1st of such registration year to display current year prorate credentials. During the first two months of the registration year, such vehicles will display the credentials issued for the previous registration year.

(4) Proportional registration credentials. Washington prorate credentials consist of a cab card, which describes the vehicle and period for which the vehicle has been proportionally registered, and a prorate backing plate upon which is affixed a current prorate validation tab. If the vehicle described on the cab card is Washington based, apportioned license plates, with current validation tab affixed, will be issued in lieu of the backing plate. If the vehicle is operating under the IRP, the cab card must show the jurisdiction(s) and gross weight for which the vehicle is registered. The cab card is to be carried in or on the vehicle to which it has been issued, or in the case of a trailing unit, it may be carried in or on the power unit of the combination. Photocopies or other facsimiles of the cab card are invalid. The cab card or the Washington fee/tax receipt issued by the department, or the IRP base (~~jurisdiction is~~) jurisdiction's cab card, are the only acceptable evidence of proportional registration in this state, unless the receipt required by WAC 308-91-170 is required to accompany the base jurisdiction's cab card. The prorate backing plate, if applicable, is mounted on the front of a power unit and on the rear of a trailing unit. The validation tab shall be affixed to the upper left-hand corner square of the prorate backing plate or the space designated on the apportioned plate if applicable.

(5) Transfer of proportional registration credentials. Washington proportional registration credentials cannot be transferred from one vehicle to another vehicle or from one (~~carrier~~) fleet to another (~~carrier~~) fleet.

(6) Surrender of proportional registration credentials. Upon termination of proportional registration or deletion of a vehicle from a fleet, prorate credentials will be disposed of as follows:

(a) Vehicle based in Washington. The cab card and apportioned plate(s) with validation tab attached must be returned to the prorate section of the department. If vehicle is being deleted from the fleet, credentials must accompany the application effecting the deletion.

(b) Vehicle registered under provisions of the compact and based in another jurisdiction. Only the Washington cab card is returned to the prorate section. The prorate backing plate with validation tab attached must be returned to the prorate unit of the base jurisdiction licensing agency. If vehicle is being deleted from the fleet, cab card must accompany the application effecting the deletion. The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.

(c) Vehicles based in IRP jurisdictions. Upon termination of proportional registration or deletion of a vehicle from a fleet, the credentials must be returned to the base jurisdiction.

AMENDATORY SECTION (Amending Order PFT 8803, filed 3/2/88)

WAC 308-91-050 APPLICATIONS FOR PROPORTIONAL REGISTRATION. (1) Applicants desiring proportional registration in this state must make application to the prorate section of the department in the manner and upon the forms prescribed. Forms will be made available by the department. Washington based carriers desiring registration in other IRP jurisdictions must indicate on their applications the jurisdictions in which the fleet is (is to be) registered, list vehicles by gross weight groups and indicate within each gross weight group the gross weight each vehicle of the group is to be registered for in each jurisdiction listed. Incorrect, illegible, or incomplete applications will be returned without action.

(2) The application for any fleet shall bear the same applicant's name, or be identified therewith, for each jurisdiction in which proportional registration is sought for such fleet.

(3) After an original or renewal proportional registration application has been filed with this state for a fleet, vehicles can only be added or deleted, or changes made in registered/combined gross vehicle weight, by filing a proration application supplement - Schedule "C" in the manner prescribed.

(4) In circumstances where immediate operation of vehicles being added to the fleet is essential, a temporary letter of authority may be requested by the applicant for such vehicles, pending processing of the application and issuance of prorate credentials by the department, provided that:

((+)) (a) Licensing fees and taxes have been paid in full for the fleet's original Washington proportional registration application; and

((+)) (b) The proportional registration renewal application or supplement - Schedule "C" adding such vehicles to the proportionally registered fleet is acceptable and on file in the prorate section of the department; and

((+)) (c) The applicant's proportional registration account is considered to be in good standing and on active status.

(5) The temporary letter of authority will permit operation of the vehicles listed thereon, in jurisdictions and at gross weights indicated, for a period of time to be determined by the department but not longer than two months from the effective date of the letter. The temporary letter of authority will be issued by one of the following means as requested by the applicant:

((+)) (a) Mail;

((+)) (b) Collect facsimile or other electronic transmission for which the requestor pays the transmission and handling fees;

(c) Over the counter.

AMENDATORY SECTION (Amending Order PFT 8803, filed 3/2/88)

WAC 308-91-140 VEHICLE TRANSACTION FEE. The vehicle transaction fee pursuant to RCW 46.87.130 is hereby established in the amount of four dollars and fifty cents.

WSR 89-07-036**ADOPTED RULES****DEPARTMENT OF LICENSING**

[Order PFT 89-04—Filed March 10, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to reciprocity and proration, amending WAC 308-91-030 Definitions.

This action is taken pursuant to Notice No. WSR 89-02-062 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 46.87.010(1) and 46.87.020 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 46.87.010(2) which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 46.87 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 March 9, 1989.

By Mary Faulk
Director

AMENDATORY SECTION (Amending Order PFT 8803, filed 3/2/88)

WAC 308-91-030 DEFINITIONS. The definitions set forth below, and in chapters 46.04, 46.85, and 46.87 RCW, apply throughout this chapter.

(1) "Backing plate" means a license plate which is designed for displaying validation decals, stickers or tabs issued by jurisdictions of the compact in which the vehicle displaying the plate is proportionally registered.

(2) "Base jurisdiction," under provisions of the compact, means the jurisdiction in which the owner has "properly registered" vehicle(s) of a fleet as defined in RCW 46.87.020(14).

(3) "Base plate" means the vehicle license plate assigned to a vehicle by the base jurisdiction. Under the provisions of the IRP, this would be an "apportioned plate."

(4) "Compact" means the uniform vehicle registration proration and reciprocity agreement.

(5) "Combination of vehicles" means a power unit used in combination with trailer(s), semi-trailer(s) and/or converter gear.

(6) "Department" means the department of licensing, state of Washington.

(7) "Interstate operation" means vehicle movement between or through two or more jurisdictions.

(8) "Intrastate operation" means vehicle movement within a single jurisdiction, from one point within that jurisdiction to another point within the same jurisdiction.

(9) "Latest purchase cost or price" means the actual purchase cost or price, if reasonable, for a vehicle paid by the current owner, including the value of any trade-

in or other valuable considerations, cost of accessories and modifications but excluding taxes. Reasonable purchase cost is considered to be the fair market value of the vehicle as determined from guide books, reports or compendiums of value recognized in the automotive industry. All values are to be expressed in United States dollars.

(10) "Reciprocity jurisdiction" means a jurisdiction with which the state of Washington extends full vehicle license reciprocity because of an agreement, arrangement, declaration or mirror reciprocity as provided for in RCW 46.85.080.

(11) "Bus" (BS) means every motor vehicle designed for carrying more than five passengers and the driver and used primarily for the transportation of people.

(12) "Converter gear" (CG) means an auxiliary under carriage assembly with the fifth wheel and tow bar, used to convert a semitrailer to a full trailer.

(13) "Double bottom" (DB) means two full trailer(s)/semitrailer(s) used in a combination of vehicles.

(14) "Dump truck" (DT) means a truck whose contents are unloaded by tilting the truck bed backward with the tailgate open.

(15) "Full trailer" (FT) means every vehicle without motive power, designed for carrying persons or property, drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(16) "Lessee" means a person, firm or corporation which has legal possession and control of a vehicle owned by another under the terms of a lease agreement.

(17) "Lessor" means a person, firm or corporation which, under the terms of a lease, grants the legal right of possession, control of and responsibility for the operation of the vehicle to another person, firm or corporation.

(18) "Mileage experience year" means the period of time between July 1st and June 30th of the year immediately preceding the year in which application for registration is made.

(19) "Road tractor" (RT) means every motor vehicle designed without a fifth wheel and used for drawing other vehicles by use of a ball hitch and so constructed as to carry part of the weight of a vehicle or load so drawn (commonly referred to as a mobile home toter).

(20) "Semitrailer" (ST) means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(21) "Tractor" (TR) means every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(22) "Trailer" refers to a full trailer, semitrailer, pole trailer, or utility trailer.

(23) "Trip lease" means a lease of vehicular equipment to a common or contract carrier (lessee) for a single movement by either (a) another common or contract carrier for transportation in the direction of a point which the lessor carrier is authorized to serve, or (b) a carrier of exempt commodities, as defined in the interstate commerce act, for transportation in the general direction of the general area in which the vehicle is based.

The term may also include a similar movement intrastate where such movement is authorized under the laws of the jurisdiction.

(24) "Truck" (TK) means every motor vehicle designed, used or maintained primarily for the transportation of property (the maximum gross weight for solo trucks with three axles is 40,000 pounds).

(25) "Truck tractor" (TT) means every motor vehicle designed and used primarily for drawing other vehicles but so constructed as to carry a load thereon in addition to a part of the weight of the vehicle and load so drawn (dromedary).

(26) "Utility trailer" means any full trailer or semitrailer constructed and used solely for the purpose of carrying property and not to exceed a gross weight of 6,000 pounds.

(27) "Washington fee/tax receipt" is a receipt issued to foreign based IRP vehicles for which Washington must calculate and collect Washington fee/taxes. The receipt is issued upon payment of the Washington fee/taxes due on the vehicle. The receipt is proof of payment of Washington fee/taxes and must be carried with the vehicle while being operated in Washington.

WSR 89-07-037
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed March 10, 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 Conditions of payment—Medicare deductible on coinsurance—When paid by department, amending WAC 388-87-011;

that the agency will at 10:00 a.m., Tuesday, April 25, 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 April 26, 1989.

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

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 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 April 11, 1989. The meeting site is in a location which is barrier free.

Dated: March 10, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-87-011.

Purpose: To delete the "lifetime reserve days during a benefit period" language from the regulations.

Reason: The Medicare Catastrophic Coverage Act removes the limitation on the number of hospital inpatient days of Medicare coverage provided during a calendar year.

Statutory Authority: RCW 74.08.090.

Summary: The references to "lifetime reserve days" is eliminated from the regulations. The Medicare diagnostic related group (DRG) is the provider's payment in full, except for coinsurance and deductible amounts.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Bobbe Andersen, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-0529.

Rules are proposed by DSHS.

These rules are necessary as a result of a new federal law, Medicare Catastrophic Coverage Act of 1988.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2624, filed 5/17/88)

WAC 388-87-011 CONDITIONS OF PAYMENT—MEDICARE DEDUCTIBLE AND COINSURANCE—WHEN PAID BY DEPARTMENT. The department shall be responsible for the deductible and coinsurance amounts for recipients participating in the benefits of Parts A and B of Medicare (Title XVIII of the Social Security Act) when the following conditions are met:

(1) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule, see WAC 388-87-010((:));

~~((a))~~ (2) ~~((When the patient's Part A benefits and lifetime reserve days are not exhausted;))~~ The Medicare DRG shall be recognized as payment in full((:)), except for deductible and coinsurance amounts((:)); ~~Medicaid will not pay for the stay.~~

~~(b) When the patient's Part A benefits and lifetime reserve days are exhausted and no outlier status is identified, the Medicare DRG shall be recognized as payment in full. Except for deductible and coinsurance amounts, Medicaid will not pay for the stay.~~

~~(c) When the patient's Part A benefits and lifetime reserve days are exhausted and Medicaid outlier status is reached, Medicaid shall pay for the amount beyond the outlier threshold based on the policy described in (d) of this subsection. Medicaid shall not reimburse for a second separate DRG.~~

~~(d) The department's outlier policy shall be based on the methodology prescribed in the department's Title XIX state plan, methods and standards used for establishing payment rates for hospital inpatient services((:)); and~~

~~((2))~~ (3) The provider accepts assignment for Medicare payment.

WSR 89-07-038
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2774—Filed March 10, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to community, separate and jointly owned property entitlements, amending WAC 388-28-390.

This action is taken pursuant to Notice No. WSR 89-04-053 filed with the code reviser on February 1, 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 March 10, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 917, filed 3/14/74)

WAC 388-28-390 COMMUNITY, SEPARATE AND JOINTLY OWNED PROPERTY—~~((SOCIAL INSURANCES AND RELATED))~~ ENTITLEMENTS. (1) "Entitlement" means any ~~((form of))~~ claim or interest, payable in cash or in kind, a client may have in the following:

(a) Benefit((:));

(b) Compensation((:));

(c) Insurance((:));

(d) Pension (retirement, military, etc.)((:));

(e) Bonus((:));

(f) Allotment((:));

(g) Allowance, etc.((, payable in cash or its equivalent in which an applicant may have a claim or interest recognized in law)).

(2) The ~~((local office))~~ department shall ~~((carefully examine))~~;

(a) Determine the interest ((an applicant)) a client may have in any entitlement; and ((explore all of the facts with him).

(3) The local office shall discuss with the applicant any potential entitlements, direct him))

(b) Refer the client to the proper agency ((through which clearance may be made and, if necessary;)) to apply for such benefits;

(c) Assist ((him)) the client, when requested to do so, in obtaining such benefits;

(d) Deny a client who refuses to establish the existence of an entitlement and its value; and

(e) Consider the resource amount which the client may claim in computing the financial need whether or not the client chooses to receive the entitlement.

~~((4) Men who can receive reduced RSI benefits at age sixty-two and women who can do so at age sixty are ineligible for public assistance. Whether or not such person chooses to obtain this reduced benefit is his own decision, but the amount of the resource which he could claim shall be taken into consideration in computing his financial need.))~~

WSR 89-07-039
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2775—Filed March 10, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Conditions of payment—Medicare deductible on coinsurance—When paid by department, amending WAC 388-87-011.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule is necessary to remove the limitation on the number of hospital inpatient days of Medicare coverage provided during a calendar year in accordance with the Medicare Catastrophic Coverage Act of 1988.

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

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

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

APPROVED AND ADOPTED March 10, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2624, filed 5/17/88)

WAC 388-87-011 CONDITIONS OF PAYMENT—MEDICARE DEDUCTIBLE AND COINSURANCE—WHEN PAID BY DEPARTMENT. The department shall be responsible for the deductible and coinsurance amounts for recipients participating in the benefits of Parts A and B of Medicare (Title XVIII of the Social Security Act) when the following conditions are met:

(1) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule, see WAC 388-87-010((-));

~~((a)) (2) ((When the patient's Part A benefits and lifetime reserve days are not exhausted,)) The Medicare DRG shall be recognized as payment in full((-)), except for deductible and coinsurance amounts((-), Medicaid will not pay for the stay.~~

~~(b) When the patient's Part A benefits and lifetime reserve days are exhausted and no outlier status is identified, the Medicare DRG shall be recognized as payment in full. Except for deductible and coinsurance amounts, Medicaid will not pay for the stay.~~

~~(c) When the patient's Part A benefits and lifetime reserve days are exhausted and Medicaid outlier status is reached, Medicaid shall pay for the amount beyond the outlier threshold based on the policy described in (d) of this subsection. Medicaid shall not reimburse for a second separate DRG.~~

~~(d) The department's outlier policy shall be based on the methodology prescribed in the department's Title XIX state plan, methods and standards used for establishing payment rates for hospital inpatient services.)) and~~

~~((2)) (3) The provider accepts assignment for Medicare payment.~~

WSR 89-07-040
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Real Estate Commission)

[Memorandum—March 9, 1989]

The July 28, 1989, Real Estate Commission meeting to be held at the Red Lion Inn, Pasco, Washington, has changed location. The new location is Towne Plaza Motor Inn, North Seventh Street and Yakima Avenue, Yakima, Washington 98901.

All Real Estate Commission meetings shall commence at 9:00 a.m.

WSR 89-07-041
ATTORNEY GENERAL OPINION
Cite as: AGO 1989 No. 6
[March 9, 1989]

FIRE PROTECTION DISTRICTS—ANNEXATION—BOUNDARIES—TAXATION—MUNICIPAL CORPORATIONS—BOUNDARY REVIEW BOARDS

1. A fire protection district may withdraw an area from the boundaries of the district pursuant to RCW 52.04.056 without first referring such action to a vote of the property owners residing within the withdrawn area.
2. A fire protection district may not provide fire and emergency medical services, on a regular basis, to

an area that has been withdrawn from the district pursuant to RCW 52.04.056.

3. A fire protection district that has withdrawn an area from its boundaries pursuant to RCW 52.04.056 may not "reannex" the area in the same year and thus provide the area with services without subjecting the property in the area to a tax levy for the year.
4. Where a fire protection district withdraws territory pursuant to RCW 52.04.056 which constitutes only a portion of another taxing district, and the boundaries of the fire protection district are reestablished after March 1 of a given year, the year's tax levy will be based on the former and not on the reestablished boundaries.
5. The procedures in RCW 52.04.056, which govern the withdrawal and reannexation of territories of fire protection districts in certain circumstances, are not subject to the boundary review procedures set forth in chapter 36.93 RCW.

Requested by:

Honorable John Ladenburg
Pierce County Prosecuting Attorney
946 County-City Building
Tacoma, WA 98402-2171

WSR 89-07-042

ADOPTED RULES

**DEPARTMENT OF LICENSING
(Securities Division)**

[Order SDO-035-89-Filed March 13, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at the Department of Licensing, Highways-Licenses Building, Olympia, Washington, the annexed rules relating to the regulation and exemption of securities as follows:

Amd	WAC 460-46A-010	Limited offering exemption—Conditions to be met.
Amd	WAC 460-46A-050	Promotional shares.
Amd	WAC 460-46A-090	Disclosure document.
New	WAC 460-46A-092	Financial statements.
Amd	WAC 460-46A-095	Price of shares.
Amd	WAC 460-46A-105	Maximum and minimum offering amounts.
Amd	WAC 460-46A-110	Monies to be deposited in escrow account—Period of escrow and of offering.
Amd	WAC 460-46A-145	Restrictions on transferability.
Amd	WAC 460-46A-150	Suitability of investors.
Amd	WAC 460-46A-155	Attorney's opinion.
Rep	WAC 460-46A-060	Promoter—Definition.
Rep	WAC 460-46A-070	Cheap and promotional shares—Definition.
Rep	WAC 460-46A-080	Stock options.
Rep	WAC 460-46A-085	Inapplicability of cheap and promotional share, and stock option, restrictions.
Rep	WAC 460-46A-120	Startup management compensation prohibited.

The director finds that these rules are necessary or appropriate in the public interest or for the protection of

investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

This action is taken pursuant to Notice No. WSR 89-03-044 filed with the code reviser on January 12, 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 21.20.320(9) and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 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 March 7, 1989.

By Mary Faulk
Director

AMENDATORY SECTION (Amending Order SDO-116-82, filed 10/5/82)

WAC 460-46A-010 LIMITED OFFERING EXEMPTION—CONDITIONS TO BE MET. Transactions involving the offer and sale of securities made in accordance with all the conditions set forth in ((WAC 460-46A-020 through 460-46A-165)) this chapter shall be exempted from registration under RCW 21.20.320(9). For offerings commenced but not completed prior to the amendment of this chapter, issuers may opt to follow the rules in effect at the date of commencement of the offering.

AMENDATORY SECTION (Amending Order SDO-116-82, filed 10/5/82)

WAC 460-46A-050 ((~~MAXIMUM AMOUNT OF CHEAP AND~~)) PROMOTIONAL SHARES. ((In no event shall the aggregate amount of cheap and promotional shares exceed 40 percent of the outstanding shares of a corporation using the limited offering exemption after the completion of the offering, except that this prohibition shall not apply if the net tangible book value (under generally accepted accounting principles) per share for all shares outstanding after the offering will exceed 60 percent of the offering price per share.)) The promotional shares rules set forth in WAC 460-16A-101, 460-16A-102, 460-16A-104 through 460-16A-106, and 460-16A-109 shall apply except that promotional shares need be escrowed pursuant to WAC 460-16A-104 only to the extent that such shares exceed sixty percent of the shares to be outstanding upon the completion of the offering.

AMENDATORY SECTION (Amending Order SDO-114-86, filed 8/22/86)

WAC 460-46A-090 DISCLOSURE DOCUMENT. Each offeree under the limited offering exemption must be furnished a disclosure document on a form

provided by the securities administrator (called "Form LOE-82"). A copy of such disclosure document with all attachments must be furnished to prospective purchasers twenty-four hours before either agreeing to purchase the shares or making any payment of consideration, whichever is earlier. A manually signed copy of the disclosure document and an additional copy must be filed with the securities administrator at least ~~((ten))~~ fifteen business days prior to commencement of the offering. If the financial statements attached to the disclosure document are audited, ~~((subject to review or compilation))~~ reviewed or compiled by an accountant, ~~((a copy of the disclosure document and all attachments shall be forwarded to the accountant at the same time it is forwarded to))~~ the written consent of the accountant to inclusion in the disclosure document of the accountant's report shall be filed with the securities administrator. ~~((Certified mail, return receipt requested, is recommended.))~~ If during the course of an offering made under the limited offering exemption there shall occur an event which would materially affect the issuer, its prospects or properties, or otherwise materially affect the accuracy or completeness of the information contained in the disclosure document, the disclosure document shall be promptly revised to reflect such event, filed with the securities administrator as so revised, and used for all sales of shares in the offering thereafter.

NEW SECTION

WAC 460-46A-092 FINANCIAL STATEMENTS. (1) The issuer must file with the administrator financial statements prepared in accordance with generally accepted accounting principles, unless otherwise allowed by the administrator. The financial statements shall be attached to Form LOE-82.

(2) The financial statements required by this section shall consist of the following:

(a) A balance sheet as of the end of the issuer's most recent fiscal year and a balance sheet within one hundred twenty days from the date of Form LOE-82; and

(b) A statement of profit and loss for the issuer's last two fiscal years and for the interim period from the end of the issuer's last fiscal year to a date within one hundred twenty days from the date of Form LOE-82. If the issuer has not conducted significant operations, the issuer must submit a statement of revenues and disbursements from the inception of the corporation to the most recent practicable date.

(3) If the financial statements required by this section are audited, reviewed or compiled, the report of the certified public accountant shall be attached to the financial statements. If the financial statements are not audited, reviewed or compiled, the issuer shall attach to the financial statements a statement signed by the corporation's chief financial officer that the financial statements submitted fairly state the corporation's financial position and results of operations, or receipts and disbursements, as of the dates indicated, all in accordance with generally accepted accounting principles consistently applied and including all adjustments necessary for fair presentation under the circumstances.

AMENDATORY SECTION (Amending Order SDO-95-83, filed 7/15/83)

WAC 460-46A-095 PRICE OF SHARES. All shares sold pursuant to the limited offering exemption must be sold for cash, must be of the same class ~~((except where good cause is shown and agreed to in writing by the administrator))~~, and must be offered and sold at the same price. Where good cause is shown the administrator may, in writing, waive the provisions of this section.

AMENDATORY SECTION (Amending Order SDO-116-82, filed 10/5/82)

WAC 460-46A-105 MAXIMUM AND MINIMUM OFFERING AMOUNTS. The issuer must specify the minimum amount of funds necessary to achieve the results anticipated in the disclosure document required under WAC 460-46A-090, and, unless the administrator finds a higher minimum amount is necessary, this shall be the minimum amount of funds to be raised under an offering under the limited offering exemption. The issuer must also establish a maximum amount of funds to be so raised ~~((, and the minimum amount shall not be less than 75 percent of the maximum amount))~~.

AMENDATORY SECTION (Amending Order SDO-116-82, filed 10/5/82)

WAC 460-46A-110 MONIES TO BE DEPOSITED IN ESCROW ACCOUNT—PERIOD OF ESCROW AND OF OFFERING. The issuer must establish a separate escrow account with a bank acting as escrow agent for all funds received for sales of securities under the limited offering exemption until at least the minimum amount has been raised. If the minimum amount is not raised within ~~((six))~~ twelve months of the ~~((first offer))~~ date of effectiveness of the offering, then all funds, including any interest thereon, shall be promptly returned to the investors. In any event, the offering period may not exceed ~~((nine))~~ twelve months from the ~~((time of the first offer))~~ date of effectiveness of the offering.

AMENDATORY SECTION (Amending Order SDO-116-82, filed 10/5/82)

WAC 460-46A-145 RESTRICTIONS ON TRANSFERABILITY. The issuer must place a legend on the stock certificate evidencing the shares sold under the limited offering exemption in substantially the following form:

"These shares are not registered under the Securities Act of Washington and may not be offered, or sold, pledged (except a pledge pursuant to the terms of which any offer or sale upon foreclosure would be made in a manner that would not violate the registration provisions of the Securities Act of Washington) or otherwise distributed for value, ~~((nor may these shares be transferred on the books of the Company, without opinion of counsel, concurred in by counsel for~~

~~the Company, that no violation of said registration provisions would result therefrom)) unless registered under the Act or unless an exemption from registration is available."~~

AMENDATORY SECTION (Amending Order SDO-114-86, filed 8/22/86)

WAC 460-46A-150 **SUITABILITY OF INVESTORS.** ((No person may purchase shares under the limited offering exemption in excess of (a) \$15,000, (b) 25% of his or her annual income for the last calendar year, or (c) 25% of his or her net worth, exclusive of equity in residence, automobiles, furnishings, jewelry and personal effects, whichever amount is greater. The issuer must obtain and preserve for three years a signed statement from any purchaser who purchases more than \$15,000 worth of shares in the offering that the amount of his or her investment does not exceed 25% of his or her annual income or net worth. If shares are to be purchased by a pension fund, for an IRA account or for a Keogh plan, the pension fund, IRA account or Keogh plan must meet independently the suitability requirements of this section.)) In all sales to investors in this state under the limited offering exemption the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, the investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable.

AMENDATORY SECTION (Amending Order SDO-95-83, filed 7/15/83)

WAC 460-46A-155 ((~~ATTORNEY TO REVIEW DISCLOSURE DOCUMENT~~)) ATTORNEY'S OPINION. In order for the limited offering exemption to be available, an attorney, who is a member in good standing of a state bar association, must ((~~certify to the administrator that, although he or she has not undertaken to independently verify the accuracy or completeness of the information contained within the disclosure form required under WAC 460-46A-090, he or she has reviewed the responses to the questions in the form and that (with the exception of the financial statements required under the form) the responses set forth the type of information requested by the form. He or she must further~~)) submit an opinion to the administrator that the shares to be sold in the offering have been duly authorized and when issued upon payment of the offering price will be legally and validly issued, fully paid and nonassessable.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 460-46A-060 **PROMOTER—DEFINITION.**

WAC 460-46A-070 **CHEAP AND PROMOTIONAL SHARES—DEFINITION.**

WAC 460-46A-080 **STOCK OPTIONS.**

WAC 460-46A-085 **INAPPLICABILITY OF CHEAP AND PROMOTIONAL SHARE, AND STOCK OPTION, RESTRICTIONS.**

WAC 460-46A-120 **STARTUP MANAGEMENT COMPENSATION PROHIBITED.**

WSR 89-07-043

**NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES**

[Memorandum—March 6, 1989]

The board of trustees of Seattle Community College District has scheduled meetings from 8:30 a.m. to noon on Tuesday, March 7, 1989, at the Siegal Center, 1500 Harvard, Seattle, WA 98122; from 1:00 p.m. to 5:00 p.m. on Tuesday, March 7, at Seattle Central Community College, 1701 Broadway, Seattle, WA 98122; from 8:30 a.m. to noon, Thursday, March 9, at North Seattle Community College, 9600 College Way North, Seattle, WA 98103; and 1:00 p.m. to 5:00 p.m. at South Seattle Community College, 6000 16th Avenue S.W., Seattle, WA 98106.

The board will be holding on-site interviews in conjunction with their chancellor search.

WSR 89-07-044

**NOTICE OF PUBLIC MEETINGS
LOWER COLUMBIA COLLEGE**

[Memorandum—March 9, 1989]

At its March 8, 1989, meeting, the District 13 board of trustees voted unanimously to change its regular meeting date from 7:00 p.m. on the second Wednesday of each month to 5:00 p.m. on the third Wednesday of each month. Thus, regular meeting dates for the balance of the year will be as follows:

April 19, 1989
May 17, 1989
June 21, 1989
July 19, 1989
August 16, 1989
September 20, 1989
October 18, 1989
November 15, 1989
December 20, 1989

The board is aware that, until at least 20 days following publication of the amended schedule in the state register, any meetings held on the third Wednesday will be considered special meetings.

WSR 89-07-045
ADOPTED RULES
GAMBLING COMMISSION
 [Order 188—Filed March 14, 1989]

Be it resolved by the Washington Gambling Commission, acting at Spokane, Washington, that it does adopt the annexed rules relating to the amending of WAC 230-08-070 and new section WAC 230-20-248.

This action is taken pursuant to Notice No. WSR 89-03-066 filed with the code reviser on January 18, 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 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 March 10, 1989.

By Ronald O. Bailey
 Director

AMENDATORY SECTION (Amending Order 133, filed 5/16/83)

WAC 230-08-070 RAFFLE RECORDS. Licensees for the operation of raffles shall be required to prepare a detailed record covering each individual raffle. This detailed record shall be recorded in a standard format prescribed by the commission. Each detailed raffle record shall be supported by a validated bank deposit receipt(s) and winning tickets.

Operators of Class ((€)) A and ((Ⓓ)) B raffles shall be exempt from this rule, but will be required to keep all operator records in order to properly report all information as required by WAC 230-08-015.

These records shall be maintained for a period of not less than three years from the end of the licensee's fiscal year in which the raffle was completed.

NEW SECTION

WAC 230-20-248 LOTERIA AUTHORIZED - CLASS A LICENSEES ONLY. (1) Loteria is a type of bingo that utilizes symbols or pictures on playing cards instead of the normal 75 balls with numbers. The symbols or pictures are further identified with spanish subtitles and each of the 54 cards contains a separate and distinct symbol or picture. The 54 individual cards are shuffled by the caller and then randomly drawn and announced to the players. The player uses a Loteria card which contains a minimum of sixteen squares and each square has one of the 54 symbols or pictures. There are no duplicate symbols or pictures on the Loteria card.

(2) Only class "A" bingo licensees and those games operating without a license under RCW 9.46.0321 may utilize the game Loteria when played in accordance with the following rules:

- (a) No prize shall exceed \$10.00;
- (b) Except for use of letters, numbers, and balls, the game shall be conducted in the same manner as a bingo game pursuant to WAC 230-20-246;
- (c) The cards containing the symbols or pictures shall be thoroughly mixed and cut before the start of each new game;
- (d) Loteria is exempt from the requirement of 230-20-240; and
- (e) Loteria shall be subject to the same reporting requirements as Class A bingo.

WSR 89-07-046
EMERGENCY RULES
GAMBLING COMMISSION
 [Order 189—Filed March 14, 1989]

Be it resolved by the Washington State Gambling Commission, acting at Spokane, Washington, that it does adopt the annexed rules relating to the amending of WAC 230-20-064.

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 March 10, 1989.

By Ronald O. Bailey
 Director

AMENDATORY SECTION (Amending Order 175, filed 3/15/88)

WAC 230-20-064 MAXIMUM RECEIPTS, PRIZES, AND EXPENSES FOR BINGO GAMES—NET INCOME REQUIRED. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. Bona fide charitable or nonprofit organizations licensed to operate bingo must comply with the following limitations:

- (1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the license year as set out in WAC 230-04-201 and Table 1. below. Any organization not currently licensed to conduct bingo

at any class and applying for a Class "F" or above license shall submit with its license application a pro forma plan of operation including a market study with: Planned attendance; prices; prize payout schedules; and net income predictions; and any other information requested by the commission.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts as percentages of gross receipts shall not exceed the percentages listed in Table 1. by class of license. Any licensee who exceeds the maximum calendar quarter prize payout limit for its class of license by more than two percentage points (2.0%) in any month and/or exceeds its calendar quarter limits during any quarter must report to the commission, no later than 15 days following the end of the month or quarter.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, adjusted net income as a percentage of gross receipts shall not be less than the percentage listed in Table 1. by class of license for any calendar year. Any licensee who reports net income more than two percentage points (2.0%) below the minimum calendar year requirement for its class during any quarter must report to the commission additional information as required.

(4) All administrative procedures, policies, and definitions required to administer this section shall be approved by the commission, and furnished to all affected licensees. Prize payout limits, net income minimum requirements, and administrative procedures will be reviewed annually to measure the effect of this section on the licensed organizations. The annual review shall be held at the March meeting and/or periodically by request of the commission with proper and timely notification to the staff.

(5) During the commission's study on maximum limitations on bingo income, an organization may exceed the Class K gross receipts limitation if the organization has been in compliance for the last 12 months with all Class K requirements set forth in Table 1. This authorization will only be issued to those organizations who voluntarily agree to donate 14% of all gross income generated in excess of \$3,500,000 to a charitable organization of their choice. Provided: The donation may not be given to an auxiliary or to another bingo licensee Class E and above. Provided further: All donations made within the licensed year may be counted as a credit towards the 14% requirement. This section will terminate on (~~December 31, 1988~~) June 30, 1989.

Table 1.

License Class	Annual Gross Receipts	Calendar Year Prize Payout Limits	Calendar Quarter Prize Payout Limits	Calendar Year Adjusted Net Income. Minimum Requirements
A	Up to \$ 10,000	No Limits	No Limits	None
B	\$ 10,001- 50,000	No Limits	No Limits	None
C	50,001- 100,000	No Limits	No Limits	None
D	100,001- 300,000	No Limits	No Limits	None
E	300,001- 500,000	No Limits	No Limits	None
F	500,001- 1,000,000	83.0 - 80.0%	84.0%	4.0 - 5.0%
G	1,000,001- 1,500,000	80.0 - 78.0%	81.0%	5.0 - 7.0%
H	1,500,001- 2,000,000	78.0 - 76.0%	79.0%	7.0 - 9.0%
I	2,000,001- 2,500,000	76.0 - 74.0%	77.0%	9.0 - 11.0%
J	2,500,001- 3,000,000	74.0 - 72.0%	75.0%	11.0 - 13.0%
K	3,000,001- 3,500,000	72.0 - 70.0%	73.0%	13.0 - 14.0%

WSR 89-07-047

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**
[Memorandum—March 14, 1989]

Thursday, March 16, 1989
Lynnwood Hall, Room 424

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

WSR 89-07-048

**PROPOSED RULES
CRIMINAL JUSTICE TRAINING COMMISSION**
[Filed March 14, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning physical requirements for admission to basic law enforcement academies, amending WAC 139-05-230;

that the agency will at 1:00 p.m., Thursday, June 8, 1989, in the Criminal Justice Training Center, 2450 South 142nd, Seattle, WA 98168, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.101.080(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 8, 1989.

Dated: March 13, 1989

By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: Amending WAC 139-05-230 Physical requirements for admission to basic law enforcement academies.

General Purpose of Rule: Prescribes the physical requirements which each applicant must meet for admission to a basic law enforcement academy sponsored or conducted by the training commission.

Description, Summary, and Statutory Authority for Rule: This rule and the proposed amendment thereto are based upon the requirements of RCW 43.101.200 and the training commission's general authorities provided by RCW 43.101.080 and [43.101].160. Currently, an individual whose continuous law enforcement employment predates January 1, 1978, may audit the academy program in whole or part. The proposed amendment deletes any ability to audit, thereby eliminating the situation which can cause confusion and disruption during the conduct and administration of a standardized and otherwise mandated program.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing, and enforcing this rule: James C. Scott, Executive Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, phone 459-6342.

AMENDATORY SECTION (Amending Order 1-B, filed 9/10/86)

WAC 139-05-230 PHYSICAL REQUIREMENTS FOR ADMISSION TO BASIC LAW ENFORCEMENT ACADEMIES. Each successful applicant for admission to a basic law enforcement academy sponsored or conducted by the Washington State Criminal Justice Training Commission shall possess good health and physical capability to actively and fully participate in the physical activities required for basic certification. In addition to defensive tactics, such activities shall include a physical training program geared to final attainment of the instructional objectives of physical performance (~~provided that any applicant whose beginning date of continuous law enforcement employment precedes January 1, 1978, may be allowed to audit, in whole or in part, basic law enforcement training. In no such instance shall a basic certificate be issued~~).

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

WSR 89-07-049

PROPOSED RULES

CRIMINAL JUSTICE TRAINING COMMISSION

[Filed March 14, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt,

amend, or repeal rules concerning requirement of basic law enforcement training, amending WAC 139-05-200; that the agency will at 1:00 p.m., Thursday, June 8, 1989, in the Criminal Justice Training Center, 2450 South 142nd, Seattle, WA 98168, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.101.080(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 8, 1989.

Dated: March 13, 1989

By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: Amending WAC 139-05-200 Requirement of basic law enforcement training.

This rule prescribes the basic training requirement for law enforcement officers mandated by RCW 43.101.200, provides for specific exemptions therefrom, and establishes a process for hiring notification and notification of noncompliance. Subsection (2)(c)(ii) of that rule, and the proposed amendment thereof, exempts from this state's basic training mandate individuals whose law enforcement employment predates January 1, 1978.

Description, Summary, and Statutory Authority for Rule: This rule and the proposed amendment thereto are based upon the requirements of RCW 43.101.200 and the training commission's general authorities provided by RCW 43.101.080 and [43.101].160. The proposed amendment conforms WAC 139-05-200 and the training commission's practices thereinunder with AGO 1989 No. 2 by exempting from this state's basic training mandate any individual whose law enforcement employment predates January 1, 1978, regardless of the fact of length of any subsequent break in, or interruption of, such employment.

This amendatory section was adopted by the training commission on an emergency basis at its duly convened meeting on March 9, 1989. Such action was taken to effect immediate conformance of commission's regulation and practice with AGO 1989 No. 2 and thereby give immediate and proper recognition to individual rights identified and described therein.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing, and enforcing this rule: James C. Scott, Executive Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, phone 459-6342.

AMENDATORY SECTION (Amending Order 14-D, filed 9/18/87)

WAC 139-05-200 REQUIREMENT OF BASIC LAW ENFORCEMENT TRAINING. (1) All full-time commissioned law enforcement employees of a city, county, or political subdivision of the State of Washington, except officers of the Washington State Patrol, unless otherwise exempted by the Washington State Criminal Justice Training Commission, shall as a condition of continued employment successfully complete a 440-hour basic law enforcement academy

sponsored or conducted by the Commission, or obtain a certificate of equivalent basic training from the Commission. This requirement of basic law enforcement training shall be met within the initial fifteen-month period of law enforcement employment, unless otherwise extended by the Commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) of this section shall include:

(a) individuals holding the office of sheriff of any county on September 1, 1979;

(b) auxiliary and reserve personnel; and

(c) commissioned personnel

(i) who have been granted an administrative exemption by the commission, provided that the initial grant and continuing effect of such exemption shall be governed by the following:

(A) no police chief or sheriff of any agency with ten or fewer full-time patrol officers shall be eligible to receive such exemption;

(B) any request for such exemption shall be submitted to the Commission on approved form and, in any instance wherein the requestor is a police chief, such request shall be co-signed by requestor's appointing authority;

(C) any individual receiving such exemption may not engage in patrol or other general enforcement activity on a usual or regular basis but shall limit such involvement to that required for supervision, agency management, or manpower replacement on an emergency or exigent basis;

(D) any approved administrative exemption shall remain in effect for the duration of the exemptee's term of service within the position upon which such exemption is based or until the nature of exemptee's primary duties and responsibilities change from administrative to general enforcement; and

(E) any approved administrative exemption may be revoked by the commission at any time and upon its finding that the conditions of such exemption are not being met or the basis for such exemption no longer exists;

(ii) whose initial date of ~~((continuing,))~~ full-time, regular and commissioned law enforcement employment within the State of Washington precedes January 1, 1978~~((, and such employment is without break or interruption in excess of ninety days))~~ or

(iii) who have been certified in accordance with the requirement of subsection (1) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months' duration.

(3) Each law enforcement agency of the State of Washington, or any political subdivision thereof, except the Washington State Patrol, shall immediately notify the Commission by approved form of each instance wherein a commissioned officer begins continuing and regular employment with that agency on or after January 1, 1978. Such notification shall be maintained by the Commission and shall be utilized by the Commission for the subsequent scheduling, notification and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of noncompliance, by the Commission, on approved form, to:

(a) the individual in noncompliance;

(b) the head of his/her agency;

(c) the civil service commission having jurisdiction of such agency;

(d) the judges and clerks of the municipal, district, and superior courts in which said agency is located;

(e) the State Auditor's Office; and

(f) any other agency or individual, as determined by the commission.

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

WSR 89-07-050

EMERGENCY RULES

CRIMINAL JUSTICE TRAINING COMMISSION

[Order 14-E—Filed March 14, 1989]

Be it resolved by the Washington State Criminal Justice Training Commission acting at Seattle, Washington,

that it does adopt the annexed rules relating to requirement of basic law enforcement training, amending WAC 139-05-200.

We, the Washington State Criminal Justice Training 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 this action was taken to effect immediate conformance of commission's regulation and practice with AGO 1989 No. 2 and thereby give immediate and proper recognition to individual rights identified and described therein.

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

This rule is promulgated under the general rule-making authority of the Criminal Justice Training Commission as authorized in RCW 43.101.080(2).

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

APPROVED AND ADOPTED March 9, 1989.

By James C. Scott

AMENDATORY SECTION (Amending Order 14-D, filed 9/18/87)

WAC 139-05-200 REQUIREMENT OF BASIC LAW ENFORCEMENT TRAINING. (1) *All full-time commissioned law enforcement employees of a city, county, or political subdivision of the State of Washington, except officers of the Washington State Patrol, unless otherwise exempted by the Washington State Criminal Justice Training Commission, shall as a condition of continued employment successfully complete a 440-hour basic law enforcement academy sponsored or conducted by the Commission, or obtain a certificate of equivalent basic training from the Commission. This requirement of basic law enforcement training shall be met within the initial fifteen-month period of law enforcement employment, unless otherwise extended by the Commission.*

(2) *Law enforcement personnel exempted from the requirement of subsection (1) of this section shall include:*

(a) *individuals holding the office of sheriff of any county on September 1, 1979;*

(b) *auxiliary and reserve personnel; and*

(c) *commissioned personnel*

(i) *who have been granted an administrative exemption by the commission, provided that the initial grant and continuing effect of such exemption shall be governed by the following:*

(A) *no police chief or sheriff of any agency with ten or fewer full-time patrol officers shall be eligible to receive such exemption;*

(B) *any request for such exemption shall be submitted to the commission on approved form and, in any instance*

wherein the requestor is a police chief, such request shall be co-signed by requestor's appointing authority;

(C) any individual receiving such exemption may not engage in patrol or other general enforcement activity on a usual or regular basis but shall limit such involvement to that required for supervision, agency management, or manpower replacement on an emergency or exigent basis;

(D) any approved administrative exemption shall remain in effect for the duration of the exemptee's term of service within the position upon which such exemption is based or until the nature of exemptee's primary duties and responsibilities change from administrative to general enforcement; and

(E) any approved administrative exemption may be revoked by the commission at any time and upon its finding that the conditions of such exemption are not being met or the basis for such exemption no longer exists;

(ii) whose initial date of (~~continuing~~) full-time, regular and commissioned law enforcement employment within the State of Washington precedes January 1, 1978(~~(- and such employment is without break or interruption in excess of ninety days)~~) or

(iii) who have been certified in accordance with the requirement of subsection (1) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months' duration.

(3) Each law enforcement agency of the State of Washington, or any political subdivision thereof, except the Washington State Patrol, shall immediately notify the Commission by approved form of each instance wherein a commissioned officer begins continuing and regular employment with that agency on or after January 1, 1978. Such notification shall be maintained by the Commission and shall be utilized by the Commission for the subsequent scheduling, notification and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of noncompliance, by the Commission, on approved form, to:

- (a) the individual in noncompliance;
- (b) the head of his/her agency;
- (c) the civil service commission having jurisdiction of such agency;
- (d) the judges and clerks of the municipal, district, and superior courts in which said agency is located;
- (e) the State Auditor's Office; and
- (f) any other agency or individual, as determined by the commission.

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

WSR 89-07-051
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning additional restrictions on the use of pesticides in Benton County and portions of Franklin and Walla Walla counties, chapter 16-230 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 24, 1989.

The authority under which these rules are proposed is chapters 17.21 and 15.58 RCW.

This notice is connected to and continues the matter in Notice No. WSR 89-03-065 filed with the code reviser's office on January 18, 1989.

Dated: March 15, 1989

By: Art Losey
Assistant Director

WSR 89-07-052
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2776—Filed March 15, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the purpose of these rules is to enable the department to pay the \$50 disregard payments to families receiving cash assistance based on the date the support payments are made by the responsible parent.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the reason these rules are necessary is to comply with federal law and a recent federal district court decision.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.04.057.

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 March 15, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2738, filed 12/14/88)

WAC 388-14-270 DISTRIBUTION OF SUPPORT PAYMENTS—PUBLIC ASSISTANCE. (1) When the office provides support enforcement services, the office shall distribute all support money collected by the office, or received by the office in its capacity, as the Washington state support registry:

(a) In accordance with state and federal law, if public assistance, or cash benefits under the family independence program, is being or has been provided for the support of the family unit;

(b) To the payee under the order if the payee has physical custody of the children;

(c) To the physical custodian of the children if someone other than the payee has physical custody of and is caring for the children; and/or

(d) To the child support enforcement agency in another state or foreign country which submitted a request for support enforcement services.

(2) Prior to distributing support moneys to a physical custodian who is not the payee under the support order, the office shall:

(a) Obtain a sworn statement from the physical custodian attesting to the fact he or she has physical custody of the children and is caring for them;

(b) Mail a notice of its intent to distribute support money to the physical custodian to the last known address of the payee and the responsible parent:

(i) The notice shall contain the following statements and information:

(A) That the office has collected or received support money due under the support order;

(B) The name of the physical custodian;

(C) That the payee may contest distribution of money to the physical custodian by requesting a conference board under WAC 388-14-385, or filing an appropriate motion with the court that entered the support order;

(D) That the office must be given notice of and made a party to any proceeding to contest the notice of distribution.

(ii) A copy of the sworn statement of the physical custodian shall be attached to the notice; and

(c) File a copy of the notice with the clerk of the court in which the support order was entered.

(3) If the location of the family or person to whom the support money is owed is unknown, the office shall exercise reasonable efforts to locate the family or person. If the office is unable to locate and disburse the money to the family or person, the office shall handle the money in accordance with an agreement with the department of revenue and as required by state law.

(4) The office shall apply the following rules to the distribution of support money:

(a) Record all payments in exact amounts without rounding;

(b) Distribute a support payment within eight days of the date the office receives the payment, unless unable to distribute the payment for one or more of the following reasons:

(i) The location of the payee is unknown;

(ii) There is not sufficient information to identify the accounts against which and to which the payment should be applied;

(iii) An action is filed in a court or agency with jurisdiction to decide the issue, to determine whether or not a support payment is owed and/or how the payment should be distributed;

(iv) Under subsection (6) of this section, the office receives prepaid support moneys which are being held and will be distributed in future months;

(v) The office mails a notice of intent to distribute the support money to the physical custodian under subsection (2) of this section; or

(vi) Other circumstances exist which make a proper and timely distribution of the payment impossible through no fault or lack of diligence of the office.

(c) The date of collection shall be the date on which the payment is received by the office. For interstate collections, the date of collection shall be the date on which the payment is received by the office or the legal entity of any state or political subdivision actually making the collection, whichever is earliest;

(d) The office shall apply all payments:

(i) To satisfy the support obligation for the month in which the payments are received and, then;

(ii) To any support debt or debts owed to:

(A) The family;

(B) A person for whom services are being provided;

(C) The department; or

(D) A child support agency in another state or foreign country.

(e) If the responsible parent owes a current support obligation to more than one family and does not pay enough money during the month to satisfy these current support obligations in full, the office shall distribute the money collected based on the proportionate share of the obligation owed to each family;

(f) The office shall apply amounts received during a month in excess of the responsible parent's current support obligation or obligations to the support debt or debts based on the proportionate size of the debts, except as provided in subsection (4)(g) of this section, if:

(i) The support payment or payments exceed the amount required to satisfy the current support obligation or obligations for that month; and

(ii) The responsible parent owes more than one support debt.

(g) The office may apply amounts distributed under this subsection to a single support debt rather than make a proportionate distribution in the following circumstances:

(i) To satisfy a support debt owed to the family that accrued after the family terminated from public assistance as provided for in RCW 26.23.030; or

(ii) If proportionate distribution is administratively inefficient; or

(iii) If the collection resulted from the sale or disposition of a specific piece of property in which the applicant/recipient or applicant/custodian has a judgment lien for child support.

(h) The office shall convert amounts collected which are paid more frequently than once a month to an

amount that represents payment on the required support obligation for the current month. The office of support enforcement is directed to distribute payments periodically to give effect to efficient administration(=:);

(i) The office shall report any amounts distributed to a family, receiving public assistance, to the community service office identifying whether or not the payment is available to meet the need. This requirement shall not relieve the recipient of the duty to report receipt of any support moneys; and

(j) The department shall pay a family, receiving cash assistance under the aid to families with dependent children program or the family independence program, the first fifty dollars of each child support payment provided under WAC 388-14-275.

(5) If the office receives or collects support moneys which represent payment on the required support obligation for future months, the office shall:

(a) Apply the support moneys to such future months if the support debt has been paid in full; and

(b) Distribute the support moneys on a monthly basis as of the date payments become due in the future.

(6) When the office receives or collects prepaid support moneys, the office shall mail a notice to the last known address of the person entitled to receive support payments. The notice shall inform the person that:

(a) The office received prepaid support money;

(b) The office will distribute this money as support payments become due in the future; and

(c) He or she may petition the court that entered the support order for an order requiring the immediate distribution of the prepaid support money.

(7) The office may recover support money distributed to a person or to the family in error, after receipt of a check which is later dishonored, or the office is later required to refund or return the support payment, as follows:

(a) In nonassistance cases, the office may deduct and retain, from subsequent support payments, any amounts collected on a support debt and ten percent of amounts collected as current support. The office shall send a notice to the last known address of the person or family prior to taking action to recover such payments. The notice shall:

(i) Contain a finding that a payment was distributed in error, was paid against a check that was later dishonored, or that the office was required to refund the support payment to the responsible parent;

(ii) Identify the payments the office will recover; and

(iii) Inform the person or family of the amounts that will be deducted from future collections; and

(iv) Inform the person or family they may request an administrative hearing under chapter 34.04 RCW to object to the notice. At the hearing, the person may contest the office's findings regarding the existence and amount of the debt for erroneous payments or other payments the office is seeking to recover.

(b) If person or family is no longer receiving support enforcement services, the office of support enforcement may take action under RCW 74.20A.270 to recover the money.

(8) If the family is receiving public assistance and the applicant/recipient fails to remit support payments to the office as required, the office shall use the process set forth in WAC 388-14-200 to recover such support payments.

NEW SECTION

WAC 388-14-275 FIFTY DOLLARS DISREGARD PAYMENT. (1) In accordance with federal law, the department shall pay a family, receiving cash assistance under the aid to families with dependent children program or the family independence program, the first fifty dollars of each child support payment made by the responsible parent in the month when due. The department shall pay the family no more than fifty dollars for each month in which a support payment is made. For purposes of this section, a payment is made by the responsible parent on the earliest of the following dates:

(a) The date a payment is received by the office of support enforcement;

(b) The date a payment is withheld from the responsible parent's wages;

(c) The date the envelope containing a payment is postmarked by the United States Postal Service; or

(d) The date received by the IV-D agency in another state or other legal entity making the collection.

(2) The department shall make a payment to the family under subsection (1) of this section based on the best information provided to the office of support enforcement with the support payment. The best information includes the earliest of the following dates:

(a) The date wages were withheld;

(b) The date an employer issues a check containing wages withheld from the responsible parent;

(c) The date postmarked by the United States Postal Service;

(d) The date received by the IV-D agency in another state or other legal entity making the collection;

(e) The date the IV-D agency in another state or other legal entity issues a check containing a child support payment from the responsible parent;

(f) The date a check is negotiable if the office of support enforcement receives a postdated check;

(g) The date process is served attaching accounts and earnings of a responsible parent, other than wages, or the date the responsible parent is entitled to receive such earnings, whichever is later; or

(h) The date the proceeds are paid from the sale of attached personal or real property.

(3) If the department subsequently receives information establishing an earlier payment date, the department shall take prompt action to make a payment required under this section or recover an erroneous payment.

(4) The office of support enforcement shall mail a notice, not less than once a quarter, to a family receiving cash assistance for whom child support was received during the reporting period. The notice shall contain the following information:

(a) The amount of the child support order;

(b) The amount of child support received;

(c) A description of how the office allocated the child support between the family and the state;

(d) The amount the department claims as reimbursement for public assistance paid; and

(e) A statement of the right to an adjudicative proceeding under chapter 34.05 RCW to contest the allocation of child support.

(5) The provisions of this section do not apply to:

(a) Child support received by the office of support enforcement by means of an income tax refund intercept authorized under 42 USC 666 (a)(1) or 666 (a)(3)(B); or

(b) Child support payments received by the office of support enforcement after the family terminates from assistance that are paid to the family under chapter 26.23 RCW and WAC 388-14-270 as current support for the month or on the support debt owed to the family.

(6) The section applies to payments made by the responsible parent on or after January 1, 1989.

WSR 89-07-053
PROPOSED RULES
GAMBLING COMMISSION
[Filed March 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 230-20-350, 230-30-106, 230-40-070 and repealing WAC 230-02-150;

that the agency will at 10:00 a.m., Friday, May 12, 1989, in Nendel's, Bellingham, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 9.46.070 (8)(11)(14).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 12, 1989.

Dated: March 15, 1989

By: Frank L. Miller
Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 230-20-350 Licensees may join together to conduct a raffle; 230-30-106 Standards for flares made by manufacturers; distributors; operators; 230-40-070 Licensees to furnish all cards, chips and other services; and repealing 230-02-150 Immediate family defined.

Description of Purpose: This adjusts license fee basis from net to gross; this will allow distributors to make substitute flares for cash games; this requires licensees to keep moneys taken in for chips sold and table fees to be kept separate from all other money received by the licensee; and this action removes an unnecessary rule.

Statutory Authority: WAC 230-20-350 is RCW 9.46.070(8); WAC 230-30-106 and 230-40-070 is

RCW 9.46.070 (11), (14); and WAC 230-02-150 is RCW 9.46.070(14).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-20-350, housekeeping rule to adjust license fee basis from net to gross; WAC 230-30-106, allows distributors to make substitute flares for cash games. This will reduce inventory problems associated with current rule; WAC 230-40-070, requires card room licensees to keep moneys taken in for chips sold and table fees to be kept separate from all other moneys received by the licensee; and WAC 230-02-150, housekeeping action that removes an unnecessary rule.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director and Frank L. Miller, Deputy Director, 4511 Woodview Drive S.E., Lacey, WA 98504-8121, 585-7640 scan, 438-7640 comm.

Proponents and Opponents: Gambling Commission staff propose these rule amendments.

Agency Comments: The agency believes the proposed amendments are self-explanatory and need no further comment.

These amendments 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.

AMENDATORY SECTION (Amending Order 18, filed 5/21/74)

WAC 230-20-350 LICENSEES MAY JOIN TOGETHER TO CONDUCT A RAFFLE. Persons holding a license to conduct a raffle or raffles, may join together with any other person or persons holding such a license to jointly conduct a raffle only if the following conditions are met:

(1) Approval to do so is received by each licensee from the commission for that particular raffle prior to the sale of any tickets in connection therewith;

(2) The method by which the income, expenditures for prizes, and all other expenses, received and expended in connection with the raffle will be apportioned among the licensees conducting the raffle is disclosed in writing to the commission, together with the application for the commission's approval of the joint raffle;

(3) A separate bank account is established by one of the participating licensees, all of the proceeds from the raffle are deposited therein, and all of the expenses in connection with the raffle, including but not limited to, all payments for prizes, is made therefrom;

(4) Records are kept by each of the participating licensees which clearly disclose the amount of money received and expended by that licensee and by each other participating licensee in connection with the raffle. Records of expenses shall disclose for what purpose the money was spent.

~~((The amount of net receipts from the raffle to each organization participating shall be used in making those computations required to determine the class of license required of the licensee under WAC 230-04-200. The amount of net receipts from the raffle to each organization shall be computed by subtracting only the amount spent or contributed by that organization for prizes in the raffle from the gross amount received only by that organization from the proceeds of the raffle.))~~

(5) All gross receipts received by each individual participating organization shall count toward their individual license gross receipts limit.

AMENDATORY SECTION (Amending Order 173, filed 11/23/87)

WAC 230-30-106 STANDARDS FOR FLARES, MADE BY MANUFACTURERS; DISTRIBUTORS; OPERATORS. (1) Except as set forth in paragraph (2) below, the flare advertising prizes available from the operation of any punchboard, or any series of pull tabs

shall be made by the manufacturer only, winning numbers or symbols shall not be altered by any operator or distributor, and shall:

(a) Be placed only upon the upper face, or on the top, of any such punchboard or any device used to dispense the pull tabs; and

(b) Clearly set out each of the prizes available and the number or symbol which wins prizes; and

(c) Set out the winning numbers or symbols for prizes of five dollars or more in cash, or merchandise worth five dollars or more at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid therefore by the licensed operator plus 50 percent of that actual cost.

(2) Distributors and operators that make merchandise packages and merchandise-cash combination packages and distributors who sell cash only punchboards and pull tabs may make and use substitute flares in accordance with WAC 230-30-015 as long as the following conditions are satisfied:

(a) The substitute flare complies with the requirements of 1(a), (b), and (c) of this section;

(b) The winning numbers or symbols on the substitute flare are selected from the winning numbers or symbols on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer; and

(c) The substitute flare is stapled to the manufacturer's flare and the manufacturer's flare containing the identification and inspection services stamp must be defaced so as to be unusable. All flares substitutions for cash punchboards and cash pull tabs must be done by the distributor prior to delivery to the operator.

(3) Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this section.

AMENDATORY SECTION (Amending Order 186, filed 2/13/89)

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 and table fees collected 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 check in accordance with WAC 230-12-053. Counter checks are 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. 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.

(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.

REPEALER

WAC 230-02-150 IMMEDIATE FAMILY DEFINED.

WSR 89-07-054
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed March 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 standby compensation, amending WAC 356-15-080;

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 89-03-058 filed with the code reviewer's office on January 17, 1989.

Dated: March 14, 1989
By: Robert Boysen
Acting Director

WSR 89-07-055
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed March 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 Compensation plan—Fiscal impact, amending WAC 356-14-062;

that the agency will at 10:00 a.m., Thursday, May 11, 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 May 9, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-03-057 filed with the code reviser's office on January 17, 1989.

Dated: March 14, 1989
By: Robert Boysen
Acting Director

WSR 89-07-056
ADOPTED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 315—Filed March 15, 1989—Eff. May 1, 1989]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 521 South Capitol Way, Olympia, WA, that it does adopt the annexed rules relating to school year contracts for nonteaching staff, new WAC 356-15-140;

This action is taken pursuant to Notice No. WSR 89-04-024 filed with the code reviser on January 25, 1989. These rules shall take effect at a later date, such date being May 1, 1989.

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

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

APPROVED AND ADOPTED March 13, 1989.

By Robert Boysen
Acting Director

NEW SECTION

WAC 356-15-140 SCHOOL YEAR CONTRACTS FOR NONTEACHING STAFF. (1) The school for the deaf and the school for the blind may contract with full-time, permanent (as opposed to temporary), non-certificated staff to retain them in pay status only during the school year, to grant them leave without pay during the student-vacation periods, and to spread the school-year base salary earnings evenly over a 12-month period. For employees who so contract, the following rules shall apply:

(a) Twelve-month, prorated pay will be calculated by the following steps:

(i) The total annual salary for scheduled work during the school year will be calculated for each employee, beginning with the first day of employment, for the new school year.

This calculation will include:

(a) scheduled holidays which will occur between the beginning and the end of the school year.

(b) any increment increases which will occur while the employee is in pay status.

It will not include:

(a) sick leave or annual leave, or holidays which occur after the close of the school year.

(b) anticipated general increases; but these will be included in a recalculation when they occur. The recalculation will affect only the remaining time in the 12-month contract.

(ii) The total annual salary will be divided by 24 to obtain 24 equal payments for a 12-month period. These equal payments are referred to hereafter as the "prorated salary".

(iii) General increases, when granted during the school year, shall be accommodated by recalculation of the prorated salary as it will be affected forward from the effective date of the increase.

(b)(i) Annual leave, compensatory time, paid holidays, and sick leave taken during scheduled days of work will be treated as hours worked.

(ii) Annual leave and paid holidays taken in lieu of leave without pay during periods of school closure, such as Christmas vacation, spring vacation, and summer months, will be paid at the full (not prorated) hourly rate.

The "full hourly rate" is determined by dividing the total annual salary by the number of contract work days in that school year, and dividing that by eight hours.

(iii) For each hour of leave-without-pay taken during a scheduled work day, an hour of pay at the full (not prorated) hourly rate will be deducted from the prorated salary for that pay period.

(c) The "regular rate" for overtime work shall be calculated in the manner described in WAC 356-05-053, except that the "basic salary" and any other components of the "regular rate" shall be the "full hourly rate" (not 12-month prorated salary). Shift premium will not be prorated.

(d) Compensatory time may be credited and utilized as described in WAC 356-14-240. If accrued compensatory time is liquidated as provided in WAC 356-14-265, the liquidation rate shall be based on the full hourly rate (not the prorated salary).

(e) Vacation leave and an employee's personal holiday which is unused at the end of the school year may be paid as extended employment beyond the contract period. Each hour of accumulated vacation thus taken will be compensated at the full hourly rate (rather than the prorated salary level) in addition to the continuing 12-month prorated salary. It will be paid at the end of the pay period in which it is taken. Hours for which vacation time is paid will be considered as hours worked for the purpose of accruing additional vacation and sick leave.

(f) Accrued sick leave may not be used between school years or during periods of leave without pay, even though accrued vacation may be being utilized during that period. Accrued sick leave which can be converted to monetary compensation as provided in WAC 356-18-050(3) shall be compensated at the employee's current actual salary rate, rather than the prorated salary rate.

(g) An employee's movement within and among the pay ranges shall be based on the actual salary (not the prorated salary).

(h) A 12-month pay agreement as described in this section may be terminated at the request of the employee only if the agency determines that a bona fide hardship is being created by its continuation, or by termination of employment. Accrued (withheld) salary, vacation, and compensatory time under the 12-month agreement is immediately payable on termination of employment.

(i) Nothing in this section shall result in an employee receiving more compensation for the same work performed than would an employee who did not have such a 12-month contract.

(2) (WAC 356-15-140 describes the effect of leave without pay on seniority and periodic increment dates for these employees.)

WSR 89-07-057
LIQUOR CONTROL BOARD
[Filed March 15, 1989]

Effective March 1, 1989
Resolution No. 288
Administrative Order No. 279
LCB Order Register (WAC 314-12-140)

A resolution concerning the protection of the health and welfare of the public in all areas of beverage alcohol commerce pursuant to RCW 66.08.010.

WHEREAS, said Resolution No. 260 stated that after June 1, 1989, the Washington State Liquor Control Board would not list new items nor order any products that were not packaged in containers that were "recyclable or biodegradable"; and,

WHEREAS, the board has become aware that containers made of Polyethelene Terephthalate (P.E.T.) are in fact recyclable and a statewide P.E.T. recycling plan has been started; and,

WHEREAS, the board wants to encourage the continued expansion of these P.E.T. plastic container recycling programs; and,

WHEREAS, the Liquor Control Board will review the success of these P.E.T. plastic container recycling programs in May 1990;

NOW, THEREFORE, BE IT RESOLVED That new and existing Liquor Control Board product listings may be packaged in P.E.T. plastic containers as long as viable P.E.T. plastic recycling programs are ongoing in the state of Washington.

ADOPTED this 1st day of March, 1989.

Washington State Liquor Control Board
Paula O'Connor
Robert D. Hannah
Mike Murphy

Attest:

Judy Pierce
Secretary

WSR 89-07-058
PROPOSED RULES
SKAGIT VALLEY COLLEGE
[Filed March 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 Grievance procedure—Sexual harassment, sex discrimination, and handicapped discrimination, chapter 132D-300 WAC;

that the institution will at 4 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 May 9, 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 May 8, 1989.

Dated: March 14, 1989

By: Wendy Bohlke

Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 132D-300 WAC, Grievance procedure—Sexual harassment, sex discrimination, and handicapped discrimination.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: 29 USC Sec. 794 (Section 504 of the Rehabilitation Act of 1973); 20 USC Sec. 1681 et seq. (Title IX of the Education Act of June 1972); and 42 USC 2000 et al (Civil Rights Act of 1964, as amended).

Summary of Rules: The rules provide a procedure by which employees may channel complaints of alleged discriminatory conduct as to handicapped and sexual harassment.

Reasons Supporting the Proposed Rules: The state executive order, and state and federal laws require that such procedures be available to employees.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mount Vernon, WA 98273, (206) 428-1108.

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 necessary to comply with the federal law or a federal or state court decision, [see above].

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Chapter 132D-300 WAC
GRIEVANCE PROCEDURE—SEXUAL HARASSMENT, SEX
DISCRIMINATION, AND HANDICAPPED DISCRIMINATION

WAC

- 132D-300-010 Statement of policy.
 132D-300-020 Jurisdiction.
 132D-300-030 Grievance procedure.

NEW SECTION

WAC 132D-300-010 STATEMENT OF POLICY. Skagit Valley Community College is covered by Title IX of the Education Amendments of 1972 prohibiting sex discrimination in education and Section 504 of the Rehabilitation Act of 1973 prohibiting discrimination on the basis of handicap. The college is committed to protecting the rights and dignity of each individual in the campus community and so will not tolerate discrimination of any kind, at any level.

Further, it is the policy of Skagit Valley Community College to provide an environment in which employees can work free from sexual harassment or sexual intimidation. Sexual harassment is a form of sex discrimination. As such it is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments.

Sexual harassment of an employee is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- (1) Submission to the conduct is either explicitly or implicitly a term or condition of an individual's employment or career advancement; and/or
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or decisions affecting that individual; and/or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or has the effect of creating an intimidating, hostile, or offensive environment.

NEW SECTION

WAC 132D-300-020 JURISDICTION. This chapter shall serve as a Title IX/Section 504 grievance procedure for all employees of Skagit Valley Community College including classified staff, faculty, and administrators. Students shall use the grievance procedure provided in chapter 132D-120 WAC to resolve Title IX/Section 504 grievances.

NEW SECTION

WAC 132D-300-030 GRIEVANCE PROCEDURE. (1) Any applicant for employment or employee of Skagit Valley Community College who believes he/she has been discriminated against on the basis of sex or on the basis of a handicap may lodge a formal institutional grievance according to the following procedures:

(a) Step 1: Informal meeting. The complainant may request an informal meeting with the individual believed to have committed the discriminatory act in an attempt to informally resolve the concern.

(b) Step 2: Official hearing. If not satisfied by the results of the informal meeting (or as a first step in the procedure), the complainant shall request a meeting with the college Title IX/handicap officer.

(i) The request for an official hearing must be made in writing and must stipulate the specific grievance(s) the complainant wishes to raise.

(ii) Within thirty calendar days of receiving the written request, the college Title IX/handicap officer shall arrange a meeting to hear the complaint. It shall be at the discretion of the complainant to determine whether the officer will meet with the complainant and the person to whom the complaint has been directed separately or in a single meeting. If the complainant requests a single meeting, the meeting shall be attended by the complainant, the person to whom the complaint is directed, and the college officer, who will chair the meeting.

(iii) Following the hearing and within thirty calendar days of receiving the written request, the college officer will report his/her findings in writing to both the complainant and the person to whom the complaint has been directed.

(c) Step 3: Presidential appeal. If the complaint is not resolved as a result of the hearing conducted by the college Title IX/handicap officer, either the complainant or the person to whom the complaint is directed may request an appeal to the college president.

(i) The request must be made in writing within ten days after receipt of the written results of the official hearing.

(ii) Within fifteen days after receiving the request, the college president or the president's designee will conduct the presidential appeal hearing and report the findings in writing to both the complainant and the person to whom the complaint is directed.

(iii) Attendance at the presidential appeal hearing shall be limited to the college president or designee, the Title IX/handicap officer, the complainant, and the person to whom the complaint is directed unless otherwise mutually agreed by the parties. The college president or presidential designee shall preside.

(iv) Either the complainant or the person to whom the complaint is directed may call witnesses at the discretion of the person presiding.

(v) The written findings of the presidential appeal will be considered final. No further intra-institutional appeal exists if the findings indicate that the person against whom the complaint is lodged engaged in sexual harassment or other discriminatory act, disciplinary proceedings may be commenced against the person pursuant to appropriate procedures, depending on whether the person is a member of classified staff, administrative exempt, or faculty.

(2) If desired, inquiries or appeals beyond the institutional level may be directed to:

(a) Regional Director, Office of Civil Rights, HEW, 2901 - Third Avenue, M.S. 510, Seattle, Washington 98121.

(b) The Equal Opportunity Commission, 1321 - Second Avenue, 7th Floor, Seattle, Washington 98101.

(c) The Human Rights Commission, 402 Evergreen Plaza Building, 7th and Capitol Way, Olympia, Washington 98504.

WSR 89-07-059**PROPOSED RULES****DEPARTMENT OF FISHERIES**

[Filed March 16, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 3, 1989.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

This notice is connected to and continues the matter in Notice No. WSR 89-03-075 filed with the code reviser's office on January 18, 1989.

Dated: February 28, 1989

By: Joseph R. Blum
Director**WSR 89-07-060****ADOPTED RULES****DEPARTMENT OF FISHERIES**

[Order 89-12—Filed March 16, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

This action is taken pursuant to Notice No. WSR 89-03-075 filed with the code reviser on January 18, 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 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 3, 1989.

By Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

- Abernathy Creek – Highway 4 Bridge.
- Bear River – Highway 101 Bridge.
- Bone River – Highway 101 Bridge.
- Chehalis River – U.P. Railway Bridge in Aberdeen.
- Chinook River – The tide gates at the Highway 101 Bridge.
- Cowlitz River – A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.
- Dakota Creek – A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.
- Duwamish River – First Avenue South Bridge.
- Elk River – Highway 105 Bridge.
- Entiat River – Highway 97 Bridge.
- Germany Creek – Highway 4 Bridge.
- Hoquiam River – Highway 101 Bridge.
- Humtulpis River – Mouth of Jessie Slough.
- Johns River – Highway 105 Bridge.
- Kennedy Creek – Highway 101 Bridge.
- Lake Washington Ship Canal – Line 400 feet below the fish ladder at the Chittenden Locks.
- Lewis River – A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.
- Methow River – Highway 97 Bridge.
- Mill Creek – Highway 4 Bridge.
- Naselle River – Highway 101 Bridge.
- North Nemah River – Line from markers approximately one-half mile below the Highway 101 Bridge.
- Niawiakum River – Highway 101 Bridge.
- North River – Highway 105 Bridge.

- Palix River – Highway 101 Bridge.
- Puyallup River – 11th Street Bridge.
- Samish River – The Samish Island Bridge (Bayview-Edison Road).
- Sammamish River – Kenmore Highway Bridge.
- Skagit River – A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.
- Skamokawa Creek – Highway 4 Bridge.
- Snohomish River – Burlington Northern Railway Bridges crossing main river and sloughs.
- South Nemah River – Lynn Point 117 degrees true to the opposite shore.
- Tucannon River – State Highway 261 Bridge.
- Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.
- White Salmon River – Highway 14 Bridge.
- Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.
- Willapa River – Highway 101 Bridge.
- Yakima River – Highway 240 Bridge.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-126 UNLAWFUL PROVISIONS—DUWAMISH WATERWAY. During the period ((September)) October 1 through October 15, in those waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island:

(1) It is unlawful to take, fish for or possess salmon using any gear other than that ~~((specified in WAC 220-56-205 (freshwater salmon angling gear)))~~ gear that meets the requirements of this subsection:

(a) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(c) No leads, weights, or sinkers may be attached below or less than 12 inches above a nonbuoyant lure.

(d) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to take, fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

- (3) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-56-128 FOOD FISH FISHING ((CLOSURES))—CLOSED AREAS ((AND SEASONS)). It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) ~~((It is unlawful to fish for or possess food fish taken for personal use in waters inside of or upstream from the following described Puget Sound marine water times:~~

~~((a))) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times.~~

~~(3) The waters of Percival Cove are closed at all times.~~

~~(4) Those waters of Hood Canal((: (i) Waters)) within a radius of one hundred feet from the confluence of Finch Creek with tidewater adjacent to the Hood Canal Salmon Hatchery are closed December 1 through October 31. Those waters within 50 feet of the confluence are closed from November 1 through November 30.~~

~~((ii)) (5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters salt-water are closed at all times.~~

~~((b)) (6) Those waters of Sinclair Inlet((:A)) inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.~~

~~((c) Budd Inlet. The Fourth Avenue Bridge at Olympia.~~

~~((d)) (7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.~~

(8) In Shilshole Bay((:)) for salmon, the ~~((time shall be))~~ closed waters are the waters below the Burlington Northern Railroad Bridge. For bottomfish or other food fish, the ~~((time shall be))~~ closed waters are those waters 400 feet below the fish ladder at the Chittenden Locks from October 1 through May 31; and below the Burlington Northern Railroad Bridge all year.

~~((e)) (9) Those waters of the Chinook River((: The)) upstream from tide gate at the Highway 101 Bridge are closed at all times.~~

~~((f) It is unlawful to fish for or possess food fish taken for personal use from)) (10) Those waters of the Columbia River((:~~

~~((a)) between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) ((from)) are closed October ((+6)) 23 through June ((30)) 15.~~

~~((b)) (11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.~~

(12) Those waters of Elliott Bay southerly and upstream from lines described as a 1,000 foot radius north of a point midway between Port of Seattle Pier 37 and the Crowley Maritime Corporation Pier 18 and a 1,000 foot radius north of a point midway between the Todd Shipyard Pier 13 and the Lockheed Shipyard Pier 4 to the First Avenue South Bridge are closed August 1 through September 30.

(13) Those waters of the Duwamish River downstream from the Highway 99 Bridge (the Pacific Highway South Bridge) to the First Avenue South Bridge are closed July 1 through September 30.

NEW SECTION

WAC 220-56-133 DES MOINES PUBLIC FISHING PIER. It is unlawful to fish for or possess food fish or shellfish taken within 100 yards of the Des Moines public fishing pier except while fishing from the Des Moines public fishing pier.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

(3) Code D: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater than 24 inches in length and all coho salmon greater than 20 inches in length must be released.

(4) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April ~~((+5))~~ 16 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(5) Code G: In waters having this code designation, the bag limit is four salmon, not more than two of which may be chinook salmon and the minimum size for chinook salmon is 22 inches in length.

(6) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April ~~((+5))~~ 16 through June 15 in Catch Record Card Areas 5, 6, and 7, ~~((9, 10, 11, and 13;))~~ it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except the daily bag limit in Catch Record Card Area 12 is three salmon of any species.

~~((6))~~ (7) Code I: In waters having this code designation, the bag limit, size restrictions, and opening and closing dates are the same as those for gamefish as regulated under Title 77 RCW by the Washington wildlife commission. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

~~((7))~~ (8) The possession limit in all waters regulated under Bag Limits A, C, D, F, G, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the possession limit for gamefish as regulated under Title 77 RCW by the Washington wildlife commission.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-185 MARINE AREA CODES. The term "marine area code numbers" is defined as the catch area for the salmon catch record card. The following is a list of the catch areas:

(1) Area 1 (Ilwaco): West of the Megler-Astoria Bridge - north to Leadbetter Point. Effective January 1, 1989, Area 1 includes only waters west of the Buoy 10 Line and north to Leadbetter Point.

(2)(a) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. Effective January 1, 1989, Area 2 excludes waters of Willapa Bay and Grays Harbor.

(b) Effective January 1, 1989, Area 2-1: Willapa Bay.

(c) Effective January 1, 1989, Area 2-2: Grays Harbor east of a north-south line through Grays Harbor Channel Marker 13.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Navigation Buoy BW "R" - Smith Island - the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(8)(a) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point - Shipwreck Line.

(b) ~~((Effective January 1, 1989;))~~ Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.).

(c) ~~((Effective January 1, 1989;))~~ Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(11) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS-SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound ~~((contiguous marine waters east of the mouth of the Sekiu River;))~~:

(a) Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, and 12 - Bag Limit H - open the entire year ~~((-except))~~:

(b) Catch Record Card Areas 10, 11, and 13 - Bag Limit G - open the entire year.

(c) In the above waters there are specified closures as provided for in WAC ~~((220-56-120;))~~ 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla-Tatoosh Line - Bag Limit F except during the period April ~~((+5))~~ 16 through June 15 maximum size limit of 30 inches on chinook salmon

if the waters described in this subsection are open – open concurrently with the ocean, and these waters will remain open through October 31 or until the ocean salmon quota for any species is taken.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 – Bag Limit F – (~~open on the Saturday preceeding Memorial Day through Labor Day~~) when opened by emergency regulation.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) – (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) Bag Limit A – (~~September~~) August 16 through (~~November 30~~) January 31: Waters (~~east~~) of the (~~Buoy 13 line – barbless hooks and handheld poles required; chinook salmon greater than 28 inches in length must be released~~) Westport Boat Basin only.

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) – (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, (b) (~~special~~) Bag Limit A – (~~six salmon not less than 10 inches in length not more than two of which may be any combination of the following: Chinook over 24 inches in length, coho over 20 inches in length, pink, chum, or sockeye over 10 inches in length – open September 1~~) August 16 through (~~November 30~~) January 31.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-195 CLOSED AREAS—SALT-WATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlinn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April (~~15~~) 16 through (~~June 30~~) May 31.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad

Bridges at the north end of Swinomish Slough shall be closed to salmon angling April (~~15~~) 16 through July 15.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from (~~June~~) April 16 through August 15.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling (~~March 15~~) April 16 through (~~August 31~~) September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April (~~15~~) 16 through June 15.

(4) (~~Quilcene~~) Dabob Bay: Those waters north of a line projected true east from Pulali Point are closed to salmon angling April (~~15~~) 16 through August 15.

(5) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to (~~Kulo Kala~~) Kulakala Point are closed to salmon angling April (~~15~~) 16 through June 30.

(6) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October (~~14~~) 15.

(7) Elliott Bay:

(~~a~~) Waters easterly of a line projected 187 degrees true from Pier 91 through the Duwamish Head Light to Duwamish Head are closed to salmon angling August 1 through September 9.

(~~b~~) Waters easterly and southerly of a line running approximately 72 degrees true from the Armeni Public Boat Ramp in West Seattle to the Columbia Sea-First Center in downtown Seattle are closed to salmon angling September 10 through September 11.

(8) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling (~~June~~) April 16 through (~~September 30~~) August 31.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-196 CLOSED AREAS—PINK SALMON ANGLING. It is unlawful to take or possess pink salmon taken for personal use from the following marine waters: None.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (Punch Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point.

(b) Rockfish – 15 fish.

(c) All other species – no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. (Punch Card Areas 5 through 7) – 15 fish in the aggregate of all species of bottomfish, no more than 2 of which may be lingcod and no more than 10 of which may be rockfish or surfperch. It is unlawful to possess lingcod less than 22 inches in length taken by angling. The daily bag limit taken by spear fishing may include no more than one lingcod in the 15 fish aggregate, with no size restriction.

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island (Punch Card Areas ~~(8)~~ 8-1 through 13) – 15 fish in the aggregate of all species of bottomfish, no more than 1 of which may be lingcod, no more than 5 of which may be rockfish and no more than 10 of which may be surfperch or Pacific cod. It is unlawful to possess lingcod less than 22 inches in length taken by angling. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-56-240 ~~((DAILY))~~ BAG LIMITS—OTHER FOOD FISH. It is unlawful for any one person to take in any one day more than the following quantities and sizes of food fish taken for personal use:

(1) Sturgeon: 2 fish not less than 36 inches nor more than 72 inches in length state-wide, except:

(a) ~~((2))~~ 1 fish not less than 48 inches nor more than ~~((72))~~ 66 inches in length in the Columbia River and ~~((mainstem impoundments))~~ tributaries upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.

(b) ~~((Effective April 30, 1988,))~~ 2 fish not less than 40 inches nor more than 72 inches in length in Grays Harbor and Willapa Bay and all rivers and streams draining into each.

(c) 2 fish not less than 40 inches nor more than 72 inches in length in the Columbia River ~~((between Bonneville Dam and))~~ downstream from a line perpendicular to the river flow where the river becomes the

Oregon/Washington boundary approximately 17.3 miles above McNary Dam.

~~((c))~~ (d) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

~~((d Effective January 1, 1989,))~~ (e) There is an annual personal use bag limit of 15 sturgeon.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-56-245 HALIBUT—BAG AND POSSESSION LIMITS. (1) It is unlawful to fish for or possess more than:

(a) ~~((2))~~ 1 halibut taken from Catch Record Card Areas 1 ~~((;))~~ or 2 ~~((, 3, or those waters of Area 4 west of the Bonilla-Tatoosh Line))~~ in any one day.

(b) ~~((1))~~ 2 halibut taken from those waters of Catch Record Card ~~((Area 4 east of the Bonilla-Tatoosh Line or))~~ Areas ~~((5))~~ 3 through 13 in any one day.

(2) The possession limit shall not exceed one daily bag limit of fresh halibut.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-255 HALIBUT—SEASON. It is unlawful to fish for or possess halibut taken for personal use except from:

(1) ~~((April 1 through September 30 in))~~ Catch Record Card Areas 1 and 2: April 1 through September 30 – open seven days per week.

(2) ~~((May 1 through June 30 in))~~ Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: May 6 through June 27 – Tuesday through Saturday; June 30 through July 29 – Friday and Saturday; September 1 through September 10 – open seven days per week.

(3) ~~((March 1 through June 15 in those waters of))~~ Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: April 8 through June 15 – open seven days per week; June 16 through August 11 – Fridays only.

NEW SECTION

WAC 220-56-282 STURGEON—LAWFUL GEAR. (1) It is unlawful to fish for sturgeon with other than natural bait, using no more than two single hooks.

(2) It is unlawful to fish for sturgeon using barbed hooks in Grays Harbor and Willapa Bay and all rivers and streams draining into each, and in those waters of the Columbia River and tributaries upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-295 STURGEON—UNLAWFUL ACTS. (1) It is unlawful to possess in the field or transport for personal use any sturgeon from which either the head or tail or both have been removed or to possess sturgeon eggs without having retained the carcass of the fish from which the eggs have been removed.

(2) It is unlawful to use a gaff or other fish landing aid that penetrates the fish while restraining, handling or landing any sturgeon.

(3) It is unlawful to fail to immediately return to the water any sturgeon that is not of legal size.

~~((4) It is unlawful to fish for sturgeon with other than natural bait, using no more than two single hooks:))~~

AMENDATORY SECTION (Amending Order 88-28, filed 5/25/88, effective 8/22/88)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance – diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay – diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 20 pounds or 10 quarts in the shell.

(9) Shrimp: 10 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red rock crabs: 12 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-56-315 CRABS, SHRIMP, CRAWFISH—~~((GEAR))~~ UNLAWFUL ACTS. (1) It is ~~((lawful))~~ unlawful to take~~((-fish-for))~~ and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except that in Puget Sound waters it is unlawful to use at any one time more than two units of gear for the purpose of taking crabs and two additional units of gear for the purpose of taking shrimp. One unit of gear is equivalent to one ring net or one shellfish pot.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes except from one hour before official sunrise to one hour after official sunset.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

AMENDATORY SECTION (Amending Order 88-28, filed 5/25/88, effective 8/22/88)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS. (1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name, telephone number, and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the ~~((shrimp-license))~~ recreational license form. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) ~~((It is unlawful for any person using shellfish traps for personal use shellfishing to allow said traps to become uncovered by water))~~ The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) ~~((Effective January 1, 1985;))~~ The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) ~~((It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.~~

(6) ~~It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes except from one hour before official sunrise to one hour after official sunset.~~

(7) ~~It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.~~

~~(8) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.)) It is unlawful to fish for or possess crab or shrimp taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:~~

~~(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.~~

~~(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.~~

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-325 SHRIMP—AREAS AND SEASONS. (1) The following areas shall be defined as personal use shrimp fishing Districts 1 through 6:

(a) Shrimp District 1 – All waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island, to Rocky Point on the Miller Peninsula, and including all waters of Discovery Bay;

(b) Shrimp District 2 – All waters of Griffin Bay south of a line projected east-west through Turn Rock Light from San Juan Island to Lopez Island, and north of a line projected east from Cattle Point on San Juan Island to Lopez Island;

(c) Shrimp District 3 – All waters of Port Angeles Harbor west of a line from the eastern tip of Ediz Hook to the ITT-Rayonier dock;

(d) Shrimp District 4 – All waters of Sequim Bay south of a line projected west from Travis Spit on the Miller Peninsula;

(e) Shrimp District 5 – All waters of Hood Canal south of the Hood Canal Floating Bridge;

(f) Shrimp District 6 – All waters of Carr Inlet north of a line from Penrose Point to Green Point.

~~(2) It shall be unlawful to fish for or possess shrimp taken for personal use ((except from May 15 through September 15 unless otherwise provided for in this section:~~

~~(2) It is unlawful to fish for or possess shrimp taken for personal use from all waters of Hood Canal south of the Hood Canal Floating Bridge except from 9:00 a.m. on the third Saturday in May through June 30.~~

~~(3) It is unlawful to fish for or possess shrimp taken for personal use from the waters of Carr Inlet inside and northerly of a line projected from Penrose Point to Green Point)) from the following areas, except as provided in this subsection:~~

~~(a) District 1 – May 16 through September 15;~~

~~(b) District 2 – May 16 through September 15;~~

~~(c) District 3 – May 16 through September 15;~~

~~(d) District 4 – Closed to all shrimp fishing;~~

~~(e) District 5 – 9:00 a.m. on the third Saturday in May until closed by emergency regulation;~~

- (f) District 6 – Closed to all shrimp fishing;
 (g) All other areas – April 16 through October 15.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-350 HARDSHELL((S)) CLAMS, COCKLES, MUSSELS—AREAS AND SEASONS.

(1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands of Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(e) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed ((the entire year)) except county tidelands north of the county fishing pier are open ((April)) January 1 to June 15((; +1988)) of even-numbered years and county tidelands south of the pier are open January 1 to June 15((; +1989)) of odd-numbered years.

(f) State oyster reserves are closed to clam digging the entire year.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-355 CLAMS—UNLAWFUL ACTS.

(1) It shall be unlawful for any person digging hardshell clams for personal use to fail to fill in holes created during the digging operation. Beach terrain must be returned to approximately its original condition by clam diggers before leaving the scene.

(2) ~~((All broken hardshell clams must be retained as part of the bag limit.~~

~~((3))~~ It shall be unlawful to maim, injure or attempt to capture a geoduck by thrusting any instrument through its siphon or to possess only the siphon or neck portion of a geoduck.

~~((4) Except as otherwise provided for in this section;)) (3) It is unlawful to possess Manila, native, or butter clams taken for personal use which measure less than 1-1/2 inches across the longest dimension of the shell((; except prior to culling it is lawful to possess smaller clams on the intertidal beach where the clams were taken. All unbroken undersized clams must be returned to the beach at the same tide height where taken)).~~

AMENDATORY SECTION (Amending Orders 88-14 and 88-15, filed 4/26/88)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July ~~((+5))~~ 16 through September 15. In addition, it is unlawful to take or possess oysters taken from the following areas except during the periods indicated:

(a) Hood Canal south of a line from Misery Point to Quatsap Point – October 1 through June 30.

~~((3) It is unlawful to take or possess oysters for personal use from federally-owned tidelands at)) (b) Seal Rock Forest Service campground ((except during the period)) – May 16 through July ~~((+4))~~ 15.~~

~~((4) It is unlawful to take or possess oysters for personal use from tidelands of)) (c) Kitsap Memorial State Park ((except during the period)) – May 16 through June 15.~~

~~((5) It is unlawful to take or possess oysters for personal use from tidelands at)) (d) Scenic Beach State Park ((through)) April ~~((+4, +1989))~~ 16 through May 15.~~

~~((6) It is unlawful to take or possess oysters for personal use from)) (e) Department of fisheries tidelands at Hoodport Salmon Hatchery ((except during the period)) – May ~~((+6))~~ 1 through ~~((July +4))~~ June 30.~~

~~((7) It is unlawful to take or possess oysters for personal use from)) (f) State tidelands at Bywater Bay ((except during the period)) – May 16 through July ~~((+4))~~ 15.~~

~~((8))~~ (3) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-56-120 CLOSED AREAS—ANGLING.

WAC 220-56-345 CLAMS, OYSTERS—CULLING PROHIBITED.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-120 BEAR RIVER. Bag Limit A – July 1 through ~~((November 30))~~ January 31: Downstream from the lime quarry road to Highway 101 Bridge (a distance of approximately 2 stream miles).

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-130 BOGACHIEL RIVER. (~~((+))~~) Bag Limit (~~((€))~~) A - July 1 through (~~((August 31))~~) November 30: Downstream from the Highway 101 Bridge.

(~~((2))~~) Bag Limit A - ~~September 1 through November 30~~: Downstream from the Highway 101 Bridge.)

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-135 CALAWAH RIVER. (~~((+))~~) Bag Limit (~~((€))~~) A - July 1 (~~((through August 31))~~) Downstream from the Highway 101 Bridge.

(~~(2))~~ Bag Limit A - ~~September 1~~) through November 30: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-137 CARBON RIVER. Bag Limit A - October 1 through November 30(~~((Downstream from old bridge abutments near the east end of Bridge Street in Orting to confluence with Puyallup River. Chinook salmon over 28 inches must be released. Closed to the taking of pink salmon in odd-numbered years))~~).

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-140 CHEHALIS RIVER. (1) (~~((Special))~~) Bag Limit A - (~~((Six salmon not less than ten inches in length, not more than two of which may be chum salmon, or chinook salmon greater than 24 inches in length, in the aggregate. Chinook salmon greater than 28 inches in length and coho salmon greater than 20 inches in length must be released immediately - September))~~) May 1 through (~~((January 31))~~) June 30: Downstream from the Porter Bridge (~~((to the Fuller Bridge))~~).

(2) (~~((Special))~~) Bag Limit A - (~~((Six salmon not less than ten inches in length, not more than two of which may be adult chinook, coho, or chum salmon, in the aggregate, defined as chinook greater than 24 inches in length, coho greater than 20 inches in length, and chum greater than 10 inches in length - September 1 through January 31. Downstream from the Fuller Bridge to the Union Pacific Railroad Bridge in Aberdeen except during the period October 16 through January 31))~~) September 1 through September 30: Downstream from Porter Bridge. Coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-150 CLALLAM RIVER. (~~((Bag Limit C - July 1 through November 30. Downstream from the confluence of Blowder Creek, located approximately one mile upstream of the uppermost Highway 12 Bridge))~~) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-155 CLEARWATER RIVER (JEFFERSON COUNTY). (~~((+))~~) Bag Limit (~~((€))~~) A - July 1 through (~~((August 31. Downstream from the mouth of the Snahapish River~~).

(~~(2))~~ Bag Limit A - ~~September 1 through~~) November 30: Downstream from the mouth of the Snahapish River(~~((except coho salmon over 20 inches must be released immediately))~~).

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag Limit D - June 1 through December 31: Downstream from Chief Joseph Dam to Rocky Reach Dam. The following are closed waters:

(a) Chief Joseph Dam - waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam - waters between the upstream line of Wells Dam and a point 400 feet below the spawning channel discharge stream.

(2) Rocky Reach Dam to Priest Rapids Dam: Bag Limit D - June 1 through September 15; Bag Limit A - September 16 through December 31. The following are closed waters: Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and points 400 feet downstream.

(3) Priest Rapids Dam to the Vernita Bridge: Bag Limit D - June 1 through August 15; Bag Limit A - August 16 through October 31; Bag Limit C - November 1 through December 31. The following are closed waters:

(a) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and a point 400 feet downstream.

(b) Jackson (Moran) Creek - waters out to mid-stream between markers located approximately 500 feet both upstream and downstream of the mouth.

(4) Vernita Bridge to old Hanford townsite wooden power line towers; Bag Limit D - June 16 through August 15; Bag Limit A - August 16 through October (~~((+5))~~) 22.

(5) Old Hanford townsite wooden power line towers to Highway 395 Bridge connecting Pasco and Kennewick: Bag Limit D - June 1 through August 15; Bag Limit A - August 16 through December 31.

(6) Highway 395 Bridge connecting Pasco and Kennewick to the Interstate 5 Bridge: Bag Limit A - January 1 through March 15; Bag Limit C - March 16 through March 31; Bag Limit D - June 16 through July 31; Bag Limit A - August 1 through December 31.

The following waters are closed to fishing for food fish at all times:

(a) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam – waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(d) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(e) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(7) Interstate 5 Bridge to the Megler–Astoria Bridge: Bag Limit A – January 1 through March 31; Bag Limit D – May 16 through July 31; Bag Limit A – August 1 through December 31. During the month of September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a boundary marker east of the mouth of Abernathy Creek.

(8) Megler–Astoria Bridge to the Buoy 10 Line: Bag Limit A – August 16 through March 31, except that during the period August 16 through September 30 size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of Punch Card Area 1.

(9) North Jetty (mouth of Columbia River): Open to angling from the bank only concurrent with the Buoy 10 fishery. Bag limit and gear requirement will be identical with those in the Buoy 10 fishery.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-165 COPALIS RIVER. Bag Limit A – July 1 through ~~((November 30))~~ January 31: Downstream from the Carlisle Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-180 CURLEY CREEK (KITSAP COUNTY). ~~((Bag Limit C = July 1 through November 30))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-181 DAKOTA CREEK. Bag Limit A – October 1 through December 31: Downstream from the Giles Road Bridge. ~~((Chinook salmon greater than 24 inches must be released.))~~

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-185 DEEP CREEK (CLALLAM COUNTY). ~~((Bag Limit C = July 1 through November 30))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-190 DESCHUTES RIVER. Bag Limit A – July 1 through November 30: Upstream from Interstate 5 Bridge except closed from a point 400 feet below the lower fish ladder at Tumwater Falls upstream to the Old Highway 99 Bridge immediately upstream from Tumwater Falls. ~~((Female chinook salmon must be released.))~~

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-195 DEWATTO CREEK. Bag Limit ~~((€))~~ A – ~~((July))~~ August 1 through November 30: Downstream from Dewatto Bay Road Bridge.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-200 DICKEY RIVER. ~~((+))~~ Bag Limit ~~((€))~~ A – July 1 through ~~((August 31. Downstream of the mouth of east fork of the Dickey River to the National Park boundary.~~

~~((2))~~ Bag Limit A – ~~September 1 through~~ November 30: Downstream of the mouth of east fork of the Dickey River to the National Park boundary.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-205 DOSEWALLIPS RIVER. Bag Limit A – ~~((October 15))~~ August 1 through January 31: Downstream from the Highway 101 Bridge. ~~((Closed to the taking of pink salmon in odd-numbered years.))~~

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-210 DUCKABUSH RIVER. Bag Limit A – ~~((October 15))~~ August 1 through January 31: Downstream from the Highway 101 Bridge. ~~((Closed to the taking of pink salmon in odd-numbered years.))~~

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-215 DUNGENESS RIVER. ~~((Special))~~ Bag Limit ~~((= six salmon per day not less than 10 inches in length))~~ A except that up to six coho salmon may be retained in the daily bag limit. Chinook salmon ~~((greater than 24 inches in length))~~ and pink salmon must be released immediately – October 1 through December 31: Downstream from markers at Duncan Road, the former Taylor Bridge site, approximately one mile below the state salmon hatchery rack. ~~((Chinook salmon over 24 inches must be released. Closed to the taking of pink salmon in odd-numbered years.))~~

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-220 DUWAMISH RIVER. (~~((+))~~) Bag Limit A - (~~(July)~~) October 1 through November 30: (~~(Upstream from the Highway 99 Bridge (Pacific Highway South Bridge) to the Highway 405 Bridge except that)~~) All chinook salmon (~~((greater than 24 inches in length))~~) must be released immediately.

(~~((2))~~) Bag Limit A - October 6 through November 30: Upstream from the First Avenue South Bridge to the Oxbow Bridge except that all chinook salmon greater than 24 inches in length must be released.)

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-225 EAST TWIN RIVER. (~~(Bag Limit C - July 1 through November 30)~~) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-230 ELK RIVER. Bag Limit (~~(E)~~) A - July 1 through (~~(November 30: Downstream from the confluence of the west and the middle forks to the Highway 105 Bridge. Bag Limit A - October 1 through)~~) January 31: Downstream from the confluence of the west and middle forks to the Highway 105 Bridge (~~(, except that chinook salmon greater than 28 inches in length must be released)~~).

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-240 ELWHA RIVER. (1) (~~(Special)~~) Bag Limit ((=)) A except that up to six coho salmon (~~((per day not less than ten inches in length except that))~~) may be retained in the daily bag limit. Chinook salmon (~~((greater than 28 inches in length))~~) and pink salmon must be released immediately - October 1 through December 31.

(2) It is unlawful to fish for or possess salmon from the waters of the Elwha River between markers located approximately 50 yards upstream and downstream from the tribal hatchery outfall or from the slough connecting the hatchery outfall to the mainstem of the river.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-260 GREEN RIVER (KING COUNTY). (~~((+))~~) Bag Limit A - July 1 through October 15: Downstream from the Porter Bridge (Auburn Eighth Street NE Bridge) to Highway 405 Bridge except that all chinook salmon greater than 24 inches in length must be released immediately.

(~~(2))~~) Bag Limit A - October (~~((+6))~~) 1 through November 30: Downstream from the downstream side of the Highway 18 Bridge (~~(to the Highway 405 Bridge except that)~~). All chinook salmon (~~((greater than 24 inches in length))~~) must be released immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-265 HAMMA HAMMA RIVER. Bag Limit A - (~~((October 15))~~) August 1 through January 31: Downstream from the Highway 101 Bridge. (~~((Closed to the taking of pink salmon in odd-numbered years:))~~)

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-270 HOH RIVER. (1) Bag Limit C - (~~(last Saturday in)~~) May 16 through November 30: Downstream from the mouth of the south fork to the mouth of Willoughby Creek.

(2) Bag Limit A - (~~(last Saturday in)~~) May 16 through November 30: Downstream from the mouth of Willoughby Creek (~~((except all coho salmon over 20 inches in length must be released immediately))~~).

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-275 HOKO RIVER. (~~(Bag Limit C - July 1 through November 30: Downstream from the Ozette Highway Bridge)~~) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-280 HOQUIAM RIVER. Main Hoquiam River, west fork of Hoquiam River downstream from the bridge on the Dekay Road and east fork of Hoquiam River downstream from the abandoned flat car bridge below the mouth of Berryman Creek (~~(:~~)

(~~(+))~~) - Bag Limit (~~(E)~~) A - July 1 through (~~((September 30;~~)

(~~(2))~~) Bag Limit A - October 1 through) January 31 (~~(; except that chinook salmon greater than 28 inches in length must be released immediately)~~).

AMENDATORY SECTION (Amending Order 85-33, filed 4/16/85)

WAC 220-57-285 HUMPTULIPS RIVER. (1) Bag Limit C - July 1 through (~~((August 31: Downstream from confluence of east and west forks.~~)

(~~(2))~~) Bag Limit C - September 1 through) January 31: Downstream of confluence of east and west forks to Highway 101 Bridge.

(~~((3))~~) (~~(2)~~) Bag Limit A - (~~((September))~~) July 1 through January 31: Downstream from the Highway 101 Bridge. (~~((Chinook salmon over 28 inches in length must be released immediately.))~~)

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-290 ICICLE RIVER. (~~(Bag Limit A - May 16 through June 30: Downstream from a point 400 feet below the Leavenworth National Fish Hatchery rack to a set of fishing boundary markers located at the mouth:))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-300 JOHNS RIVER. ((Open area)) Bag Limit A - July 1 through January 31: Downstream from Old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge.

((1) Bag Limit C - July 1 through September 30.

((2) Bag Limit A - October 1 through January 31 except that chinook salmon greater than 28 inches in length must be released immediately.))

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-325 LYRE RIVER. ((Bag Limit C - July 1 through November 30)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-326 MCALLISTER CREEK. Bag Limit A - ((October)) July 1 through November 30: Downstream from the downstream side of the Olympia-Steilacoom Road Bridge.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-327 MCLANE CREEK. Bag Limit A - July 1 through ((October 31)) November 30: Open from a line 100 feet upstream and parallel to the south bridge of Highway 101 at Mud Bay to a line 50 feet north of and parallel to the Mud Bay Road Bridge, except waters within 400 feet of the outfall of the Allison Springs chinook rearing pond are closed to salmon angling.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-330 MORSE CREEK (CLALLAM COUNTY). ((Bag Limit C - October 1 through November 30)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-335 NASELLE RIVER. (1) Bag Limit A - July 1 through ((September 30)) January 31: Downstream from the Highway 4 Bridge to Highway 101 Bridge ((except only one chinook salmon greater than 28 inches in length may be retained as part of the daily bag limit)).

(2) ((Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length and chum salmon greater than 10 inches in length. All chinook salmon over 28 inches in length

must be released immediately - October 1 through October 14: Downstream from the Highway 4 Bridge to the Highway 101 Bridge.

(3) Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length and chum salmon greater than 10 inches in length. All chinook salmon greater than 28 inches in length must be released immediately - October 15 through November 30: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

((4)) Bag Limit A - ((December 1)) October 16 through January 31: Downstream from the Big Hill Bridge to the Highway ((+0+)) 4 Bridge.

((5)) (3) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-340 NEMAH RIVER. (1) Middle Nemah, Bag Limit ((€)) A - July 1 through ((November 30)) January 31: Downstream from the department of natural resources bridge on the Middle Nemah A Line Road.

(2) North Nemah - Bag Limit A - ((November 1)) October 16 through January 31: Downstream from lower bridge on dead end Lower Nemah Road to the mouth. ((Chinook salmon over 28 inches must be released immediately.))

(3) South Nemah - Bag Limit A - July 1 through ((November 30)) January 31: Downstream from the confluence of the Middle Nemah to the mouth.

NEW SECTION

WAC 220-57-342 NIAWIAKUM RIVER. Bag Limit A - July 1 through January 31: Downstream from the South Bend-Palix Road Bridge to the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-350 NOOKSACK RIVER. (1) ((Special daily)) Bag Limit ((of)) A except that up to six coho salmon ((per day)) may be retained in the daily bag limit - August 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) North Fork - Bag Limit ((€)) A - ((September)) October 1 through ((October)) December 31: ((North fork)) Downstream from Maple Creek to mouth of north fork.

(3) ((The entire Nooksack River is closed to the taking of pink salmon in odd-numbered years.)) South Fork - Bag Limit A - October 1 through December 31: Downstream from the Saxon Bridge to mouth of south fork.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-365 PALIX RIVER. Bag Limit A - July 1 through ~~((November 30))~~ January 31: Downstream from the confluence of the south and middle forks to the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-370 PUYALLUP RIVER. Bag Limit A - July 1 through November 30: Downstream from the mouth of the Carbon River to the 11th Street Bridge. ~~((Closed to the taking of pink salmon in odd-numbered years.))~~

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-375 PYSHT RIVER. ~~((Bag Limit C - July 1 through November 30: Downstream from the confluence of Green Creek))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-57-380 QUILCENE (BIG QUILCENE) RIVER. Bag Limit A - September 1 through January 31: Downstream from Highway 101 Bridge. ~~((During the month of September chinook salmon greater than 24 inches in length must be released immediately.))~~

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-385 QUILLAYUTE RIVER. Bag Limit A - May ~~((†))~~ 16 through November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters. ~~((Terminal fishing gear is restricted to a single barbless hook during the month of May.))~~

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57-400 SALMON RIVER (JEFFERSON COUNTY). Bag Limit A - September ~~((†5))~~ 16 through ~~((October 31))~~ November 30: Downstream from the Q 1000 Road Bridge including waters within Olympic National Park outside the boundaries of the Quinault Indian Reservation. ~~((Chinook salmon greater than 24 inches in length must be released immediately.))~~

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-405 SAMISH RIVER. Bag Limit A - October ~~((†5))~~ 16 through ~~((November 30))~~ December 31: Downstream from Interstate 5 Bridge to markers located approximately one-quarter mile downstream from Samish Island Bridge. ~~((Chinook salmon over 24 inches in length must be released.))~~

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-410 SAMMAMISH RIVER (SLOUGH). (1) Bag Limit A - August ~~((†))~~ 16 through December 31: Downstream from the 102 Avenue NE Bridge to the Kenmore Highway Bridge. All sockeye salmon must be released.

(2) Bag Limit A - October ~~((†5))~~ 16 through December 31: Upstream from the 102 Avenue NE Bridge to Lake Sammamish. All sockeye salmon must be released immediately.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-415 SATSOP RIVER. ~~((†) Bag Limit C - July 1 through September 30: Downstream from the bridge at Schafer State Park on east fork:~~

~~((2))~~ Bag Limit A - October 1 through January 31: Downstream from the bridge at Schafer State Park on east fork. Chinook salmon ~~((over 28 inches in length))~~ must be released immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-420 SEKIU RIVER. ~~((Bag Limit C - July 1 through November 30: Downstream from the confluence of the north and south forks))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57-425 SKAGIT RIVER. (1) Bag Limit ~~((C))~~ A - ~~((July))~~ August 1 through December 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon must be released immediately.

(2) ~~((Special))~~ Bag Limit A - June 1 through December 31: Downstream from Gilligan Creek ~~((bag limit C from July 1 through December 31 except the six salmon daily bag limit may include no more than one chinook salmon greater than 24 inches in length)).~~

~~((3))~~ The entire Skagit River is closed to the taking of pink salmon in odd-numbered years.))

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-430 SKOKOMISH RIVER. Bag Limit A - ~~((July 15))~~ August 1 through January 31: Downstream from the mouth of Vance Creek. Terminal gear on the Skokomish River is limited to one bait or lure with one single-pointed hook only, measuring no more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-435 SKYKOMISH RIVER. Bag Limit A ~~((, except that the daily bag limit may contain up to 6 adult coho salmon))~~ - July 1 through December 31: Downstream from the confluence of north and south

forks. (~~Closed to the taking of pink salmon in odd-numbered years.~~)

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-440 SMITH CREEK (PACIFIC COUNTY). (~~(+)~~) Bag Limit A - July 1 through (~~November 30~~) January 31: (~~From mouth to a marker located approximately one mile upstream.~~

(~~2~~) Bag Limit C - July 1 through ~~November 30~~: Downstream from Highway 101 Bridge to (~~marker approximately one mile upstream from~~) the mouth.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-445 SNAKE RIVER. Bag Limit (~~(A)~~) C - September 1 through November 30: Downstream from a point 400 feet below Little Goose Dam to (~~Lower Monument Dam~~) the mouth, except waters within 400 feet of the Lyons Ferry hatchery fishway and waters at both Lower Monumental Dam and Ice Harbor Dam between the upstream line of each dam and points 400 feet below each dam are closed to (~~salmon angling. Chinook salmon greater than 28 inches in length must be released immediately~~) fishing for food fish at all times.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-450 SNOHOMISH RIVER. Bag Limit A (~~except that the daily bag limit may contain up to 6 adult coho salmon~~) - July 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie rivers. (~~Closed to the taking of pink salmon in odd-numbered years.~~)

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-455 SNOQUALMIE RIVER. Bag Limit A (~~except that the daily bag limit may contain up to 6 adult coho salmon~~) - July 1 through December 31. (~~Closed to the taking of pink salmon in odd-numbered years.~~)

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-460 SOLEDUCK RIVER. Bag Limit A - May (~~(+)~~) 16 through November 30: Downstream from the concrete pump station at the Soleduck Hatchery. (~~Terminal fishing gear is restricted to a single barbless hook during the month of May.~~)

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57-465 STILLAGUAMISH RIVER. Bag Limit A - (~~October 1~~) August 16 through (~~January~~) December 31: Downstream from confluence of north and south forks. (~~Closed to the taking of pink~~

~~salmon in odd-numbered years.~~) Chinook salmon (~~greater than 24 inches in length~~) must be released immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-470 TAHUYA RIVER. Bag Limit (~~(E)~~) A - (~~July~~) August 1 through November 30: Downstream from a marker approximately one mile above the North Shore Road Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-475 TOLT RIVER. (~~Bag Limit C - July 1 through November 30. Downstream from the forks~~) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-490 UNION RIVER. Bag Limit (~~(E)~~) A - (~~July~~) August 1 through November 30: Downstream from the North Shore Road Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-500 WEST TWIN RIVER. (~~Bag Limit C - July 1 through November 30~~) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57-502 WHATCOM CREEK. Bag Limit (~~(E)~~) A - August 1 through December 31: Downstream from the footbridge below Dupont Street in Bellingham.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-510 WILLAPA RIVER. (1) Bag Limit A - July 1 through (~~September 30~~) January 31: Downstream from Highway 6 Bridge, approximately 2 miles below the mouth of Trap Creek, to the Highway 101 Bridge.

(2) Bag Limit A - October (~~(+)~~) 16 through January 31: Downstream from mouth of Fork Creek to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek. (~~Chinook salmon greater than 28 inches in length must be released immediately.~~

(3) Special bag limit = six salmon per day, not more than four of which may be any combination of chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length, or chum salmon greater than 10 inches in length and all chinook salmon greater than 28 inches in length must be released immediately = October 1 through January 31. Downstream from the Highway 6 Bridge approximately two miles below the mouth of Trap Creek to the Highway 101 Bridge.)

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-520 WISHKAH RIVER. ((+)) Bag Limit ((€)) A - July 1 through ~~((September 30: Downstream from the mouth of the west fork.~~

(2) ~~Bag Limit A - October 1 through~~) January 31: Downstream from the mouth of the west fork. ~~((Chinook salmon greater than 28 inches in length must be released immediately.))~~

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-525 WYNOOCHEE RIVER. ((+)) Bag Limit ((€)) A - July 1 through ~~((September 30: Downstream from the mouth of Schafer Creek.~~

(2) ~~Bag Limit A - October 1 through~~) January 31: Downstream from the mouth of Schafer Creek. ~~((Chinook salmon greater than 28 inches in length must be released immediately.))~~

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57A-030 CAPITOL LAKE. Bag Limit A - July 1 through November 30: Downstream from the Interstate 5 Bridge to the shear boom at the north end of the lake. ~~((Female chinook salmon must be released.))~~ Percival Cove shall be defined as those waters of Capitol Lake lying westerly of a set of markers on the western shoreline of the south basin of Capitol Lake. Percival Cove is closed to food fish angling the entire year.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57A-175 LAKE WASHINGTON. (1) Waters north of the Evergreen Point Floating Bridge - Bag Limit A - August 1 through December 31. Sockeye salmon must be released immediately.

(2) Waters south of the Evergreen Point Floating Bridge - Bag Limit A - October ~~((+))~~ 16 through December 31. Sockeye salmon must be released immediately.

Waters within a 1,000-foot radius of the mouth of the Cedar River are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). Bag Limit A - August ~~((+))~~ 16 through December 31: West of University Bridge, to a line perpendicular to the north wing wall located 400 east of the eastern end of the north wingwall of the Chittenden Locks. Sockeye salmon must be released immediately. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge and waters between the line 400 east of eastern end of the north wingwall of the Chittenden Locks and the railroad bridge west of the locks are closed to salmon angling at all times.

WSR 89-07-061
PROPOSED RULES
SKAGIT VALLEY COLLEGE
 [Filed March 16, 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 board of trustees, adopting chapter 132D-104 WAC; and repealing chapter 132D-08 WAC;

that the institution will at 4 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 May 9, 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 May 8, 1989.

Dated: March 14, 1989

By: Wendy Bohlke

Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rules: Repealing chapter 132D-08 WAC, board of trustees; and adopts chapter 132D-104 WAC, board of trustees.

Statutory Authority: RCW 28B.50.140(13) and chapter 42.30 RCW.

Specific Statute that Rule is Intended to Implement: RCW 28B.50.140(13).

Summary of Rules: The rules provide general information about the make-up of the board of trustees at the college and inform the public about its regular meeting schedules. It also provides a mechanism by which information can be obtained from the college.

Reasons Supporting the Proposed Rules: Chapter 132D-08 WAC references a law that has been repealed and the new rules provide accurate reference information needed by the public to contact the college and for the college to comply with the open meetings law.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mount Vernon, WA 98273, (206) 428-1108.

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: None.

Chapter 132D-104 WAC
BOARD OF TRUSTEES

NEW SECTION

WAC 132D-104-010 THE BOARD OF TRUSTEES. The government of Community College District No. 4 (Skagit Valley College) is vested in a five-person board of trustees. The trustees are appointed by the governor, and serve five-year terms and/or until their successors are appointed. Annually at its June meeting, the board elects a chairperson and vice chairperson who serve for a term of one year and until their successors are elected from the membership of the board.

NEW SECTION

WAC 132D-104-020 MEETINGS OF THE BOARD OF TRUSTEES. The board customarily holds monthly meetings on the second Tuesday of each month at such place as it may designate. Notices of the time and place of all regular and special meetings shall be governed by the requirements of the Open Public Meetings Act, Chapter 42.30 RCW.

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

NEW SECTION

WAC 132D-104-030 COMMUNICATION TO THE BOARD OF TRUSTEES. Persons who wish to bring a matter to the attention of the board of trustees may do so by submitting written communications to the Executive Secretary of the Board of Trustees, President's Office, Skagit Valley College, 2405 College Way, Mount Vernon, Washington 98273.

NEW SECTION

WAC 132D-104-040 GENERAL INFORMATION. Information concerning admissions to the college may be obtained from the Office of Student Affairs, Skagit Valley College, 2405 College Way, Mount Vernon, Washington 98273.

Additional and detailed information concerning the various programs of the college may be obtained from the catalog, copies of which are available upon writing the registrar.

REPEALER

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

- (1) WAC Chapter 132D-08, BOARD OF TRUSTEES.

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 89-07-062
PROPOSED RULES
SKAGIT VALLEY COLLEGE
[Filed March 16, 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-18 WAC Public records.
New ch. 132D-276 WAC Access to public records;

that the institution will at 4:00 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 May 9, 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 May 8, 1989.

Dated: March 14, 1989

By: Wendy Bohlke
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Repeals chapter 132D-18 WAC, Public records; and adopts chapter 132D-276 WAC, Access to public records.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: RCW 42.17.250 - [42.17].350, the public records law.

Summary of Rules: The rules provide information and instruction on how to access and inspect public records at the college.

Reasons Supporting the Proposed Rules: RCW 42.17-.250, et al, require that procedures be established for access to public records.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mount Vernon, WA 98273, (206) 428-1108.

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: None.

Chapter 132D-276

Access to Public Records

NEW SECTION

WAC 132D-276-010 PURPOSE. The purpose of this chapter is to ensure that Community College District No. 4 complies with the provisions of RCW 42.17, Disclosure - Campaign Finances - Lobbying - Records; and in particular with sections 250 through 340 of that chapter, dealing with public records.

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

NEW SECTION

WAC 132D-276-020 DEFINITIONS. (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics: Provided, however, that the personal and other records cited in RCW 42.17.310 are exempt from definition of public record.

(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, combination thereof and all papers, maps,

magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums and other documents.

(3) Community College District No. 4. "Community College District No. 4 (Skagit Valley College)" is an agency organized by statute pursuant to RCW 28B.50.040. Community College District No. 4 shall hereafter be referred to as the "district." Where appropriate, the term "district" also refers to the staff and employees of the district.

NEW SECTION

WAC 132D-276-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF COMMUNITY COLLEGE DISTRICT NO. 4. (1) Community College District No. 4 is a state agency established and organized under the authority of chapter 28B.50 RCW for the purpose of implementing the educational goals established by the legislature in RCW 28B.50.020. The administrative office of the district is located on the Skagit Valley campus within the city of Mount Vernon, Washington. The Mount Vernon campus likewise comprises the central headquarters for all operations of the district. Field activities for the Whidbey Branch of the district are administered by personnel located at the Whidbey Branch in Oak Harbor, Washington; all other field activities of the district are directed and administered by personnel located on the campus at Mount Vernon.

(2) The district is operated under the supervision and control of a board of trustees. The board of trustees consists of five members appointed by the governor. The board of trustees normally meets at least once each month, as provided in WAC 132D-104-020. The board of trustees employs a president, an administrative staff, members of the faculty and other employees. The board of trustees takes such actions and promulgates such rules, regulations, and policies in harmony with the rules and regulations established by the State Board for Community College Education, as are necessary to the administration and operation of the district.

(3) The president of the district is responsible to the board of trustees for the operation and administration of the district. A detailed description of the administrative organization of the district is contained within the Policies and Procedures Manual for Community College District No. 4, a current copy of which is available for inspection at the administrative office of the district.

NEW SECTION

WAC 132D-276-040 OPERATIONS AND PROCEDURES. (1) Formal decision-making procedures are established by the board of trustees through rules promulgated in accordance with the requirements of chapter 28B.19 RCW, the Higher Education Administration Procedure Act (HEAPA).

(2) Informal decision-making procedures at the college, as established by the board of trustees, are set forth in the Policies and Procedures Manual of Community College District No. 4, a current copy of which is available for inspection at the administrative office of the district.

NEW SECTION

WAC 132D-276-050 PUBLIC RECORDS AVAILABLE. All public records of the district, as defined in this chapter, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by 42.17.310 RCW.

NEW SECTION

WAC 132D-276-060 PUBLIC RECORDS OFFICER. The district's public records shall be in the charge of the public records officer designated by the chief administrative officer of the district. The person so designated shall be located in the district administrative office. The public records officer shall be responsible for the following: implementation of the district's rules and regulations regarding release of public records, coordinating the district employees in this regard, and generally ensuring compliance by district employees with the public records disclosure requirements in Chapter 42.17 RCW.

NEW SECTION

WAC 132D-276-070 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the district. For purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m.,

Monday through Friday, excluding legal holidays and holidays established by the college calendar.

NEW SECTION

WAC 132D-276-080 REQUESTS FOR PUBLIC RECORDS. In accordance with the requirements of RCW 42.17.290 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at the district administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the district's staff at the district administrative office during customary office hours. The request shall include the following information:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

NEW SECTION

WAC 132D-276-090 COPYING. No fee shall be charged for the inspection of public records. The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record had tendered payment for such copying to the appropriate district official. All charges must be paid by money order, cashier's check, or cash in advance.

NEW SECTION

WAC 132D-276-100 DETERMINATION REGARDING EXEMPT RECORDS. (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132D-276-080 is exempt pursuant to the provisions set forth in RCW 42.17.310 and RCW 42.17.315. Such determination may be made in consultation with the public records officer, president of the college district, or an assistant attorney general assigned to the district.

(2) Pursuant to RCW 42.17.260, the district reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy; Provided, however, in each case, the justification for the deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within two business days as to whether his request for a public record will be honored.

(4) All denials of request for public records must be accompanied by a written statement, signed by the public records officer or his/her designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the public record withheld.

NEW SECTION

WAC 132D-276-110 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request

shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the president of the district, or his or her designee.

(3) Within two business days after receiving the written request by a person petitioning for a prompt review of a decision denying a public record, the president of the district, or his or her designee, shall complete such review.

(4) During the course of the review the president or his or her designee shall consider the obligations of the district fully to comply with the intent of Chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider both the exemptions provided in RCW 42.17.310 through 42.17.315, and the provisions of the statute which require the district to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

NEW SECTION

WAC 132D-276-120 PROTECTION OF PUBLIC RECORDS. Requests for public records shall be made at the administrative office of the district in Mount Vernon, Washington. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 132D-276-090.

NEW SECTION

WAC 132D-276-130 RECORDS INDEX. (1) The district has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated by the district after June 30, 1972:

- (a) Final options, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;
(c) Administrative staff manuals and instructions to staff that affect a member of the public;
(d) Planning policies and goals, and interim and final planning decisions;
(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and
(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index maintained by the district shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 132D-276-140 ADOPTION OF FORM. The district hereby adopts for use by all persons requesting inspection and/or copying or copies of its records the following form:

REQUEST FOR PUBLIC RECORD TO COMMUNITY COLLEGE DISTRICT NO. 4

(a) Name (please print) Signature
Name or Organization, if applicable
Mailing Address of Applicant Phone Number
(b) Date Request Made Time of Day Request Made
(c) Nature of Request

(d) Identification Reference on Current Index (Please describe)

(e) Description of Record, or Matter, Requested if not Identifiable by Reference to the Community College District No. 4

Request: APPROVED DENIED Date

By Name Title

Reasons for Denial:

Referred to Date

By Name Title

REPEALER

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

- (1) WAC Chapter 132D-18, Public Records.

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 89-07-063
PROPOSED RULES
SKAGIT VALLEY COLLEGE
[Filed March 16, 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 Family Educational Rights and Privacy Act, chapter 132D-280 WAC;

that the institution will at 4 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 Tuesday, May 9, 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 May 8, 1989.

Dated: March 14, 1989
By: Wendy Bohlke
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 132D-280 WAC, Family Educational Rights and Privacy Act.
Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: Family Rights and Privacy Act of 1974, Public Law 93-380, 20 U.S.C. Sec. 1232g.

Summary of Rules: Regulations governing confidentiality of student records and right to privacy as well as access to those records.

Reasons Supporting the Proposed Rules: Required as a condition of receipt of federal funding.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mount 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 necessary to comply with the federal law or a federal or state court decision, [see above].

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Chapter 132D-280 WAC

Family Educational Rights and Privacy Act

NEW SECTION

WAC 132D-280-010 CONFIDENTIALITY OF STUDENT RECORDS. The college continually receives requests from outside sources for the information about students, both past and present. The staff and faculty of the college are reminded that 20 USC 1232(g), the Family Educational Rights and Privacy Act of 1974 directs the college to adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in these records. In order to prevent embarrassment or possible legal involvement of the college and its employees because of improper disclosure of information, it is important that college policy be implemented in the release of such information.

NEW SECTION

WAC 132D-280-020 EDUCATION RECORDS—STUDENTS' RIGHT TO INSPECT. (1) A student has the right to inspect and review his or her education records. A list of the types of education records maintained by the college and the record locations may be obtained by the student at the college's dean of student's office.

(a) For purposes of this section the term "education records" means those records, files, documents and other materials which contain information directly related to a student.

(b) The term "education records" does not include:

(i) Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker and which are not accessible or revealed to any other person except a substitute.

(ii) Records of the campus security department which are kept apart from those records described in WAC 132D-280-020 (1)(a) and which are maintained solely for law enforcement purposes and which are not made available to persons other than law enforcement officials of the same jurisdiction.

(iii) In the case of persons who are employed by but do not attend that educational institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose.

(iv) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity and which are created, maintained or used only in connection with the treatment of the student, and are not available to anyone other than persons providing such

treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(2)(a) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in paragraphs (b), (c) and (d) of this section.

(b) The student may specifically release his right to review where the information consists only of confidential recommendations respecting:

(i) Admission to any educational institution; or

(ii) An application for employment; or

(iii) Receipt of an honor or honorary recognition.

(c) A student's waiver of his or her right of access to confidential statements shall apply only if:

(i) The student is, upon request, notified of the names of all persons making confidential statements concerning him, and

(ii) Such confidential statements are used solely for the purpose for which they were originally intended, and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the college.

(d) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and recipient, prior to January 1, 1975, shall not be subject to release under WAC 132D-280-020 (2)(a). Such records shall remain confidential and shall be released only with the consent of the author. Such records shall be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to the student.

(4) Students have the right to obtain copies of their education records. Charges for the copies shall not exceed the cost normally charged by the college (except in cases where charges have previously been approved by the boards of trustees' action for certain specified services, such as transcripts and grade sheets).

(5) The dean of students is the official custodian of academic records and therefore is the only official who may issue a transcript of the student's official academic record.

(6) Student education records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with WAC 132D-280-020 and 132D-280-025 be removed or destroyed prior to providing the student access.

NEW SECTION

WAC 132D-280-025 REQUESTS AND APPEAL PROCEDURES. (1) A request by a student for review of information should be made in writing to the college individual or office having custody of the particular record.

(2) An individual or office must respond to a request for education records within a reasonable period of time, but in no case more than thirty (30) days after the request has been made. A college individual or office which is unable to comply with a student's request within the above-stated time period shall inform the student of that fact and the reasons in writing.

(3)(a) A student who feels that his or her request has not been properly answered by a particular individual or office should contact the appropriate dean or director responsible for the individual or office for mediation.

(b) In cases where a student remains dissatisfied after consulting with the appropriate dean or director, the student may then file an official grievance in accordance with the provisions of WAC 132D-120.

NEW SECTION

WAC 132D-280-030 RELEASE OF PERSONALLY-IDENTIFIABLE RECORDS. (1) The college shall not permit access to or the release of education records or personally-identifiable information contained there (other than "directory information") without the written consent of the student, to any party other than the following:

(a) College staff, faculty and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest within the performance

of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation or a federally or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally-identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agencies or individuals requesting information in connection with a student's application for, or receipt of financial aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully-issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance therewith. Any college individual(s) or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

- (a) A specification of the records to be released;
- (b) The reasons for such release; and
- (c) The names of the parties to whom such records will be released.

(3) In cases where records are made available without student release as permitted by WAC 132D-280-030 (1)(b), (c), (d), (e) and (f), the college shall maintain a record kept with the education record release which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with WAC 132D-280-030 (1)(a) need not be recorded.

(4) Personally-identifiable education records release to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally-identifiable form to any other parties without obtaining consent of the student.

(5) The term "directory information" used in WAC 132D-280-030(1) is defined as student's name, address, telephone number, date and place of birth, major field of studies, participation in officially-recognized activities in sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous education agency or institution attended by the student. Students may request that the college not release directory information except through written notice to the dean of student's office.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

NEW SECTION

WAC 132D-280-035 COLLEGE RECORDS. All college individuals or offices having custody of education records will develop procedures in accordance with WAC 132D-280-010 through 132D-280-040. Any supplementary regulations found necessary by departments will be filed with the college's records committee, which will be responsible for periodic review of policy and procedures.

(1) Disciplinary records shall be kept separate from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provision shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

(2) No records shall be kept that reflect a student's political or ideological beliefs or associations.

NEW SECTION

WAC 132D-280-040 REVIEW OF RECORDS REQUESTS AND REQUESTS TO AMEND. (1) The registrar shall be responsible for reviewing unusual requests for information and for assisting in the interpretation of these rules.

(2)(a) A student who believes that information contained in his or her educational records is inaccurate or misleading or violates his or her privacy may request that the College amend these records.

(b) The college shall decide within ten (10) working days of a student's request to amend records whether or not it will amend those records.

(c) If the college decides to refuse to amend the educational records of the student according to his or her request, it shall so inform the student of the refusal and advise the student of the right to a hearing.

(d) The student feeling aggrieved by a denial of his or her request to amend educational records may file an official grievance in accordance with the provisions of chapter 132D-120-280 WAC.

(e) If, at the conclusion of the hearing process, the college still declines to amend the student's educational records, the student may place a statement in his or her educational records explaining that he or she feels that the records are erroneous and setting out the reasons for this belief. This statement shall be retained as long as the disputed information is on file and shall be forwarded with this information any time it is disclosed to an outside agency.

WSR 89-07-064

PROPOSED RULES

SKAGIT VALLEY COLLEGE

[Filed March 16, 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 restricted use of skateboards, roller skates, scooters, two-wheeled motor bikes and bicycles (recreational equipment), adopting chapter 132D-350 WAC;

that the institution will at 4 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 May 9, 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 May 8, 1989.

Dated: March 14, 1989

By: Wendy Bohlke
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Adopting chapter 132D-350 WAC, Restricted use of skateboards, roller skates, scooters, two-wheeled motor bikes and bicycles (recreational equipment).

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: None.

Summary of Rules: The rules inform the public about the decision of the board of trustees to regulate use of

skateboards and other recreational equipment on the campus.

Reasons Supporting the Proposed Rules: For safety and liability reasons, the board of trustees chooses to regulate the use of recreational equipment on the sidewalks and other walkways on campus.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mount Vernon, WA 98273, (206) 428-1180.

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: None.

Chapter 132D-350 WAC

**RESTRICTED USE OF
SKATEBOARDS, ROLLER SKATES, SCOOTERS,
TWO-WHEELED MOTOR BIKES AND BICYCLES
(RECREATIONAL EQUIPMENT)**

NEW SECTION

WAC 132D-350-010 PURPOSE. The purpose of these regulations is: (1) to protect and control pedestrian traffic and traffic of persons using the above-mentioned recreational equipment.

(2) To protect from physical damage and more than ordinary wear the wooden and concrete benches, brick and paved walkways, stairs, steps, loading ramps, plazas, and ramps for the disabled, caused by the use of the recreational equipment on such areas.

NEW SECTION

WAC 132D-350-020 DEFINITIONS. As used in this chapter, "skateboard" shall mean a toy consisting of an oblong or rectangular board, made of wood, plastic, metal or components thereof, with a pair of small wheels at each end, ridden, as down an incline, usually in a standing position. It may or may not be motorized; "roller skates" shall mean a shoe with a set of wheels attached for skating over a flat surface, or a metal frame with wheels attached that can be fitted to the sole of the shoe; "scooter" shall mean a foot-operated vehicle consisting of a narrow board mounted between two wheels, tandem, with an upright steering handle attached to the front wheel; "two-wheeled motor bikes or bicycles" shall mean all two-wheeled vehicles powered by a motor or foot-operated (see also parking and traffic regulations, WAC 132D-116). These "toys" shall be commonly referred to as recreational equipment for the purpose of this policy.

NEW SECTION

WAC 132D-350-030 AUTHORITY. The Board of Trustees of Skagit Valley College, Community College District No. 4, is granted authority under Title 28B RCW to exercise full control of the college and its property and is authorized to promulgate rules and regulations to carry out its duties.

NEW SECTION

WAC 132D-350-040 REGULATION OF SKATEBOARDS, ROLLER SKATES, SCOOTERS, TWO-WHEELED MOTOR BIKES OR BICYCLES. The above may not be used on the campus except in areas as may be designated for such use by the dean of administrative and student services or his or her designee(s).

NEW SECTION

WAC 132D-350-050 ENFORCEMENT. (1) Enforcement of this chapter shall be the responsibility of the president and the dean of administrative and student services or his or her designee(s).

(2) A user of the above-described recreational equipment who refuses to abide by these regulations will be asked to leave the campus. Refusal to obey will subject the person to being cited for trespass under the provisions of Chapter 9A.52 RCW.

(3) If the user is a student, the student will be asked to refrain from using the equipment on campus. If the student refuses, a proceeding may be initiated under the Student Rights and Responsibilities Code, WAC 132D-120.

WSR 89-07-065

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Noxious Weed Control Board)
[Memorandum—March 13, 1989]**

Please register the following changes to the 1989 meeting schedule of the Washington State Noxious Weed Control Board:

DATE	LOCATION
April 19, 1989	Ellensburg
June 21, 1989	King County

The above changes are for location only.

WSR 89-07-066

**EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 89-13—Filed March 17, 1989]**

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is test results show that adequate clams are available for limited digging. Limitation of harvest to odd-numbered days allows adequate monitoring to prevent over-harvest of existing resources. There is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 17, 1989.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-56-3600R RAZOR CLAMS—AREAS AND SEASONS. *It is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3 except as provided for in this sections:*

(1) *Razor clam digging is allowed from 12:01 p.m. through 11:59 p.m., April 1, 1989.*

(2) *Razor clam digging is allowed from 12:01 a.m. through 11:59 a.m. April 3 through April 29, 1989.*

(3) *Razor clam digging is allowed on odd-numbered days only.*

(4) *It is unlawful to dig for razor clams at any time in the Long Beach or Copalis Beach Clam Sanctuaries defined in WAC 220-56-372.*

WSR 89-07-067

**NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION**

[Memorandum—March 16, 1989]

The Washington State Transportation Commission has changed its May 18, 1989, meeting day to May 25, 1989.

This meeting will begin at 9:30 a.m., and will be held in Room 1D2, Transportation Building, Olympia, Washington.

WSR 89-07-068

ADOPTED RULES

SPOKANE COMMUNITY COLLEGES

[Resolution No. 27—Filed March 17, 1989—Eff. September 1, 1989]

Be it resolved by the board of trustees of Washington Community College District 17, acting at North 2000 Greene Street, Spokane, WA 99207, that it does adopt the annexed rules relating to smoking.

This action is taken pursuant to Notice No. WSR 89-06-023 filed with the code reviser on February 24, 1989. These rules shall take effect at a later date, such date being September 1, 1989.

This rule is promulgated pursuant to RCW 28B.50-.140 and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 14, 1989.

By Dee McMillan
Chairperson

AMENDATORY SECTION (Amending Order 74-1, filed 9/23/74)

WAC 132Q-04-035 SMOKING. Smoking in district or college facilities shall not be permitted (~~(except in designated areas)~~). Violation of this section shall be cause for disciplinary action.

WSR 89-07-069

**PROPOSED RULES
SKAGIT VALLEY COLLEGE**

[Filed March 17, 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 uniform personnel rules for the classified staff service of Skagit Valley College, repealing chapter 132D-10 WAC;

that the institution will at 4 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 May 9, 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 May 8, 1989.

Dated: March 15, 1989

By: Wendy Bohlke
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Repealing chapter 132D-10 WAC, Uniform personnel rules for the classified staff service of Skagit Valley College.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: Higher education personnel law, Title 28B RCW.

Summary of Rules: These rules have been superseded by the higher education personnel law, Title 28B RCW.

Reasons Supporting the Proposed Rules: Rules no longer valid, having been superseded by chapter 28B.16 RCW.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative and Student Services, Skagit Valley College, 2405 College Way, Mount 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 the may be of Assistance in Identifying the Rule or its Purpose: None.

Chapter 132D-10 WAC
NEGOTIATIONS BY ACADEMIC PERSONNEL

REPEALER

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

(1) WAC 132D-10, UNIFORM PERSONNEL RULES FOR THE CLASSIFIED STAFF SERVICE OF SKAGIT VALLEY COLLEGE.

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 89-07-070
PROPOSED RULES
SKAGIT VALLEY COLLEGE
[Filed March 17, 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 negotiations by academic personnel, repealing chapter 132D-20 WAC;

that the institution will at 4 o'clock p.m., Tuesday, May 9, 1989, in the Board Room, Administrative Annex, Skagit Valley College, 2405 College Way, Mount 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 May 9, 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 May 8, 1989.

Dated: March 15, 1989

By: Wendy Bohlke
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule: Repealing chapter 132D-20 WAC, Negotiations by academic personnel.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: Chapter 28B.52 RCW.

Summary of Rules: Chapter 28B.52 RCW was amended in 1987 to authorize the Public Employment Relations Commission to establish rules concerning certification of elections, conduct mediation [mediation] and adjudicate unfair labor practices. These rules are no longer valid.

Reasons Supporting the Proposed Rules: Rules no longer valid, having been superseded by 1987 amendments to chapter 28B.52 RCW.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, 320 BNB, 103 East Holly, Bellingham, WA 98225, (206) 676-2037; and Implementation: Wally Sigmar, Dean of Administrative

and Student Services, Skagit Valley College, 2405 College Way, Mount 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: None.

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.

WSR 89-07-071
ADOPTED RULES
DEPARTMENT OF FISHERIES
[Order 89-05—Filed March 20, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use license rules.

This action is taken pursuant to Notice No. WSR 89-03-013 filed with the code reviser on January 6, 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 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 21, 1989.

By Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 79-58, filed 8/10/79)

WAC 220-55-010 RAZOR CLAM LICENSE AND RAZOR CLAM TAG. (1) A personal-use razor clamming license, hereinafter designated "razor clam license," shall consist of a ((~~plastic card~~)) razor clam license stamp printed by the department of fisheries which has been ((~~completed with the required information and firmly~~)) affixed to a ((~~validating overlay sheet provided by the department. The razor clam license~~)) recreational license form and on which recreational license form is written the licensee's razor clam tag number. The license

shall be invalid unless the angler identification information on the recreational license form has been completed and the licensee has signed the recreational license form.

(2) A razor clam tag shall consist of a tag issued by the department on which is printed the razor clam tag number. The razor clam tag shall be provided with an opening for attachment or display on outer clothing and shall be color-coded to designate resident, nonresident, or juvenile-senior citizen.

AMENDATORY SECTION (Amending Order 79-58, filed 8/10/79)

WAC 220-55-015 VALID RAZOR CLAM LICENSE AND TAG REQUIRED. It shall be unlawful for any person to take or possess razor clams without having in his possession a valid razor clam license and razor clam tag. The razor clam tag must be displayed on outer clothing while digging razor clams or in possession of razor clams on the digging beach. ~~((A license shall be invalid:~~

- ~~(a) Unless the license information is complete;~~
- ~~(b) Unless the licensee or designee as provided in WAC 220-55-025 has signed his name on the license;~~
- ~~(c) Unless the validation overlay is firmly affixed to the license card;~~
- ~~(d) If the signature or the date on the license is illegible or altered, or if the license has been mutilated. Note: A lost or mutilated license will not be replaced by the department free of charge.))~~

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-040 PREPAID RECREATIONAL LICENSE ISSUING PROCEDURES. ~~((Razor clam))~~ Recreational license((s)) stamps will be distributed by the department or designated distribution agents to ~~((razor clam))~~ license dealers. The ~~((licenses with))~~ stamps may be sold to ~~((in multiples of five resident licenses and multiples of five nonresident licenses and the minimum order is fifteen resident licenses))~~ license dealers on a prepaid basis.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-060 RECREATIONAL LICENSE STAMP REDEMPTION. ~~((Nonvalidated razor clam))~~ Recreational license((s)) stamps may be redeemed at face value by license dealers upon return to the license division of the department of fisheries, Olympia, Washington, not later than January 31 of the year following expiration, or by returning them by mail to that office, provided they are postmarked no later than January 31st.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-070 VALID CATCH RECORD CARD. A catch record card shall be invalid unless:

- (1) The appropriate ~~((validation))~~ license stamp, if required, is affixed to the ~~((catch record card as defined~~

~~in WAC 220-69-237 or WAC 220-69-238))~~ recreational license form. A sport catch record ~~((validation))~~ license stamp, issued by the department, is required to be affixed to the ~~((catch record card))~~ recreational license form of persons who do not meet the qualifications for issuance of a free personal use license, salmon catch record card (punchcard), or two-consecutive-day combined license and catch record card (punchcard) as set out in RCW 75.25.110. Qualifications for a free sturgeon catch record card (punchcard) are identical to those for a free salmon catch record card.

(2) ~~((The angler has signed his name in ink across the face of the stamp, if a stamp is required:~~

~~(3))~~ The validation date is legibly written in ink on the face of the stamp, if required.

If the ~~((signature or))~~ validation date is illegible or altered, or if the stamp affixed to the recreational license form has been mutilated, the catch record card is invalid. The department will not replace a lost or mutilated stamp.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-075 SPORT CATCH RECORD ((VALIDATION)) LICENSE STAMP. A sport catch record ~~((validation))~~ license stamp shall be a stamp issued by the department of fisheries to be affixed to a ~~((sport catch record card for validation purposes))~~ recreational license form.

NEW SECTION

WAC 220-55-086 TWO-CONSECUTIVE-DAY COMBINED LICENSE AND CATCH RECORD CARD. A two-consecutive-day combined license and catch record card (also referred to as a punchcard in chapter 75.25 RCW) shall consist of a two-consecutive-day license stamp affixed to a recreational license form and the appropriate catch record card.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-090 ~~((PERSONAL USE))~~ RECREATIONAL LICENSE DEALER. A ~~((personal use))~~ recreational license dealer is defined as any person, business, corporation, or governmental agency authorized by the director to issue licenses~~((;))~~ and catch record cards~~((, and validation stamps))~~.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-105 LICENSE ISSUING PROCEDURES. ~~((Personal use licenses and validation))~~ Recreational license stamps will be distributed and sold by the department to ~~((deputized distribution agents and to personal use))~~ license dealers. The stamps will be sold or issued in sheets ~~((of twenty-five stamps. Resident personal use licenses will be sold or issued in units of twenty-five licenses, and nonresident personal use licenses will be sold or issued in units of five licenses))~~.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-110 ((PERSONAL USE)) RECREATIONAL LICENSE ((AND VALIDATION)) STAMP BOND REQUIREMENTS. Persons requesting authorization as a bonded dealer must post a minimum two thousand dollar surety bond. The total face value of license((s and)) stamps issued to bonded dealers at any one time shall not exceed that dealer's bond. Dealers who prepay for license((s and)) stamps are not required to be bonded.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-115 LICENSE ((AND)) STAMP SALES REPORTING AND FEE REMITTANCES. Bonded dealers shall report ((license and)) stamp sales on forms provided by the department and remit receipts from those sales to the department no later than the tenth day of each month following the close of business for the previous calendar month.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-120 FREE ((PERSONAL USE)) RECREATIONAL LICENSE ISSUING PROCEDURE. (1) Upon request, a free ((personal use)) recreational license and valid catch record card shall be issued by license dealers to persons who qualify under ((sixteen years of age or seventy years of age or older)) RCW 75.25.040 and 75.25.110(1).

(2) Upon request a free ((personal use)) recreational license and valid catch record card shall be issued by the license supervisor of the Department of Fisheries, Olympia, Washington, to any other qualified applicant as provided for in RCW 75.25.110. A lost or illegible free license will be replaced by the license supervisor upon request and showing of proof.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-125 DUTIES OF A ((PERSONAL USE)) RECREATIONAL LICENSE DEALER. A license dealer shall, at the time of sale of a two consecutive day combined license ((and catch record card validation)) stamp, write the validation date in ink on the face of the stamp, and it shall be unlawful for him to fail to do so.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-130 VALID PERSONAL USE LICENSE. A valid personal use license shall ((be invalid unless the angler has signed his name in ink on the license or if the license is mutilated or altered. The department will not replace a mutilated license)) consist of a personal use license stamp, if required, affixed to a recreational license form issued by the department. A recreational license form shall be invalid unless the angler identification information on the recreational license

form is completed and the angler has signed the recreational license form.

NEW SECTION

WAC 220-55-140 VALID RECREATIONAL HOOD CANAL SHRIMP LICENSE. (1) A valid recreational Hood Canal shrimp license shall consist of a Hood Canal shrimp license stamp affixed to a recreational license form.

(2) All Hood Canal shrimp fishers must have a valid Hood Canal shrimp license in the fisher's immediate possession while shrimping in Hood Canal or while in possession of shrimp in Hood Canal or immediately adjacent thereto.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-55-020 INFORMATION REQUIRED.
 WAC 220-55-025 SIGNATURE REQUIRED.
 WAC 220-55-030 RAZOR CLAM LICENSE DISTRIBUTION AGENT.
 WAC 220-55-035 RAZOR CLAM LICENSE DEALER.
 WAC 220-55-045 BOND REQUIREMENTS.
 WAC 220-55-135 STAMP REDEMPTION.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-56-175 SALMON AND STURGEON CATCH RECORD CARDS. It is unlawful for any person to fail to comply with the salmon or sturgeon catch record requirements as provided for in this section:

(1) In order to take or possess for personal use anadromous salmon or Columbia River, Grays Harbor, or Willapa Harbor sturgeon (including sturgeon taken from any tributary) a fisherman must obtain and have in his possession the appropriate catch record card (also referred to as punch card in chapter 75.25 RCW) as described in WAC 220-69-237 and 220-69-238 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, when obtaining a catch record card shall completely, accurately, and legibly complete all personal identification information in ink on the catch record ((stub)) card prior to detaching the catch record card from the ((stub, and enter his name, address, and personal identification information in ink on)) underlying copy of the catch record card.

(3) Immediately upon catching and possessing a salmon or sturgeon, the angler shall enter in the appropriate space the place, date of catch, species (catch type), and, for sturgeon, length.

(4) Every person possessing a catch record card shall by January 31 of the year following the year printed on the card return such card to the department of fisheries.

(5) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized fisheries department employee, exhibit said card to such officer or employee for inspection.

(6) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-69-237 DESCRIPTION OF SPORT SALMON CATCH RECORD AND REQUIRED INFORMATION. (1) There is hereby created a sport salmon catch record form to be prepared, printed, and distributed on request, by the department of fisheries,

(2) The sport salmon catch record ((~~strb~~)) card shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.

(d) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

(e) ((~~Home phone~~)) Angler's birthdate, height, and weight.

(f) Date of issue.

((~~3~~)) The sport salmon catch record card shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.

(d) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

(e) Date of issue.

(f) Space for the license validation stamp)) (g) Angler's signature.

((~~g~~)) (h) Month of catch.

((~~h~~)) (i) Day of catch.

((~~i~~)) (j) Marine code or stream: Location of catch.

((~~j~~)) (k) Species: ((Species)) Catch type code ((for salmon)).

The information in (a) through (f) of this subsection must be completed prior to the catch record card being separated from the underlying copy of the catch record card. The angler's signature, (g) of this subsection, must be present prior to angling. The information in (h) through (k) of this subsection must be completed immediately upon catching a salmon to be retained.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-69-238 DESCRIPTION OF STURGEON CATCH RECORD AND REQUIRED INFORMATION. (1) There is hereby created a sturgeon catch record form to be prepared, printed, and distributed on request, by the department of fisheries.

(2) The sturgeon catch record ((~~strb~~)) card shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.
- (d) Angler's birthdate, height, and weight.

((~~te~~)) Date of issue.

((~~3~~)) The sturgeon catch record card shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.
- (d) Angler's birthdate, height, and weight.)

(e) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

(f) Date of issue.

(g) ((~~Number of days fished~~)) Angler's signature.

(h) Month of catch.

(i) Day of catch.

(j) Marine code, river code, or stream: Location of catch.

(k) Species: Catch type code.

(l) Length of fish.

((~~4~~)) (3) The information in subsection((s)) (2) ((and ~~3~~))(a) through (f) of this section ((are required entries prior to fishing, and)) must be completed prior to separating the catch record card from the underlying copy of the catch record card. The angler's signature, (g) of this subsection, must be present prior to angling. The information in subsection ((~~3~~)) (2)(h) through (l) of this section ((are required entries if a person fishes or catches fish. The number of days fished, even if zero, must be entered in subsection ~~3~~(g) of this section prior to returning the sturgeon catch record to the department)) must be completed immediately upon catching a sturgeon to be retained.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-69-247 REQUIRED INFORMATION ON SPORT SALMON CATCH RECORD.

WSR 89-07-072
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
(Art Review Committee)
[Memorandum—March 16, 1989]

There will be a meeting of the Art Review Committee of the Washington State Convention and Trade Center board of directors on Wednesday, April 5, 1989, at 10 a.m. The location will be the Convention and Trade Center, Room 601, 800 Convention Place, Seattle 98101.

For more information, call Peggy Flynn at 447-5012.

WSR 89-07-073
PROPOSED RULES
INSURANCE COMMISSIONER
[Filed March 21, 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 amending 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.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 22, 1989, at 2:30 p.m. in the Offices of the Insurance Commissioner, Olympia, Washington.

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.

This notice is connected to and continues the matter in Notice No. WSR 89-05-050 filed with the code reviser's office on February 15, 1989.

Dated: March 21, 1989
By: Robert E. Johnson
Deputy Commissioner

WSR 89-07-074
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 21, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning prohibited noxious weed list in chapter 16-300 WAC; seed testing charges in chapter 16-304 WAC; and rules relating to seed certification and inspection in chapter 16-316 WAC;

that the agency will at 1:30 p.m., Tuesday, May 2, 1989, in the Agricultural Service Center Conference Room, 2015 South 1st Street, Yakima, WA 98903, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 19, 1989.

The authority under which these rules are proposed is chapter 15.49 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before or on May 2, 1989.

Dated: March 21, 1989
By: Art Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapters 16-300, 16-304 and 16-316 WAC.

Description of Purpose: To establish standards for the certification of seed.

Statutory Authority: Chapter 15.49 RCW.

Summary of Rules: Proposed changes include fee adjustments and changes in seed certification standards and requirements. Proposed fee increases are for late seedling and renewal penalty fees, reinspection fees, and inspection fee for grass seed fields, and a fee increase for phyto-sanitary certification of wheat fields. Other proposed changes include deletion and additions to the varieties eligible lists, and addition of a fescue seed fluorescent test and the addition of Serrated tussock grass to the prohibited noxious weed seed list.

Reasons for Supporting Proposed Rules: Fee increases are necessary to cover additional costs of an expanding program.

Personnel Responsible for Drafting, Implementing and Enforcing Rules: Max G. Long, Seed Branch Supervisor, 2015 South 1st Street, Yakima, (509) 575-2750.

Persons Proposing Rules: Washington State Department of Agriculture; Washington Seed Advisory Board; and Washington State Crop Improvement Association.

Comments: None.

Rules Necessary to Comply with Federal Law: No.
Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1796, filed 5/16/83)

WAC 16-300-010 PROHIBITED NOXIOUS WEED SEEDS.

(1) Prohibited (primary) noxious weed seeds are the seeds of weeds which when established are highly destructive, competitive and/or difficult to control by cultural or chemical practices.

(2) It shall be unlawful for any person to distribute mislabeled seed. Seed shall be deemed to be mislabeled if it consists of or contains any of the prohibited noxious weed seeds listed below. For the purpose of seed certification, see WAC 16-316-160 for the list of prohibited noxious weeds.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Austrian fieldcress	Rorippa austriaca (Crantz) Bess.
Field bindweed	Convolvulus arvensis L.
Hedge bindweed	Convolvulus sepium L.
Camelthorn	Alhagi camelorum Fisch.
Canada thistle	Cirsium arvense (L.) Scop.
Hairy whitetop	Cardaria pubescens (C.A. Mey.)
Hoary cress	Cardaria draba (L.) Desv.
Jointed goatgrass (only in small grain)	Aegilops cylindrica
Leafy spurge	Euphorbia esula L.
Perennial pepperweed	Lepidium latifolium L.
Perennial sowthistle	Sonchus arvensis L.
Quackgrass	Agropyron repens (L.) Beauv.
Russian knapweed	Centaurea repens L.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME	ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Serrated tussock	<i>Nassella trichotoma</i>	Tansy ragwort	<i>Senecio jacobaea</i> L.
Silverleaf nightshade	<i>Solanum elaeagnifolium</i> Cav.	Yellow-flowering skeleton weed	<i>Chondrilla juncea</i> L.
Sorghum perennial such as, but not limited to, johnsongrass, sorghum alnum, and perennial sweet sudangrass	<i>Sorghum</i> spp.		

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-304-040 SCHEDULE OF CHARGES. (1) Testing fees shall be as follows:

	SAMPLE MIN. SIZE	PURITY (a)	NOXIOUS ONLY	GERM (b)	PURITY AND GERM (c)	TETRAZOLIUM 200 Seeds (d)
Bentgrass	2 oz.	\$30.00	\$15.00	\$16.00	\$46.00	\$21.00
Bluegrass	4 oz.	21.00	13.00	14.00	35.00	21.00
Bromegrass	6 oz.	22.00	13.00	11.50	33.50	21.00
Fescue	4 oz.	21.00	13.00	11.50	32.50	21.00
Orchardgrass	4 oz.	24.00	15.00	13.00	37.00	21.00
Ryegrass	4 oz.	21.00	13.00	10.50	31.50	21.00
Crested Wheatgrass	4 oz.	(24.50) 25.00	15.00	14.00	((37.50)) 39.00	21.00
Other Wheatgrasses	6 oz.	36.00	22.00	14.00	((49.00)) 50.00	21.00
Other grasses	4 oz.	17.00	10.50	10.50	27.50	21.00
Beans and peas	1 1/4 lb.	13.00	7.50	11.50	24.50	21.00
Cereals	1 1/4 lb.	13.50	9.00	11.50	25.00	21.00
Other crops	4 oz.	13.50	9.00	11.50	25.00	21.00
Mixture (for each additional kind)		10.50		13.00		21.00
Beets		18.00	8.50	17.00	35.00	
Rapeseed		32.00	9.00	16.00	48.00	21.00
Carrot		13.50	9.00	11.50	25.00	36.00

(a) Purity - analysis to determine percent pure, other crop, inert, and weeds based on working sample as prescribed by Federal Seed Act (example: One gram - bluegrass; five grams - alfalfa; and one hundred grams - wheat) and examined for Washington state noxious weeds based on minimum sample size as prescribed by Federal Seed Act (example: Ten grams - bluegrass; fifty grams - alfalfa; five hundred grams - wheat).

(b) Germination - test prescribed by Federal Seed Act to determine percent germination of seed sample based on four hundred seeds.

(c) Purity and germination - includes both (a) and (b). This combination of tests provides information needed to label seed under state and federal acts.

(d) Tetrazolium test - a chemical test that measures viability and germination potential. (A germination test should also be obtained.)

(2) Special tests: (Standard noxious exam size unless otherwise specified).

(a) Crop and/or weed exam Noxious only fee plus \$ 3.50 (or hourly rate when applicable)

All crop seeds and/or all weed seeds are listed as number per pound.
 (b) *Poa annua* check for bentgrass and bluegrass - each five grams \$16.00
Poa annua check for other grasses - each 10 grams \$16.00

(c) Sod seed analysis -
 Bluegrass \$56.00
 Fescue \$40.00
 Ryegrass \$32.00

(A special test of turf grasses - for those who need a detailed examination of seed before purchase and/or use.)

Bluegrass test includes purity, twenty-five gram all weed/all

crop, except ten gram *Poa annua* exam. Ryegrass and Fescue test includes purity, one hundred gram all weed/all crop. (Fluorescent required on ryegrass; germ and fluorescent test additional fee.)

(d) Fluorescent test - (four hundred seed test) \$13.00

(e) Pest and disease, soil exam or similar \$16.00

(f) Variety separation of Kentucky bluegrass \$18.00 (Reported on seed analysis certificate.) A visual examination of a representative sample.

(g) Sod analysis check - twenty-five gram exam to evaluate if a lot appears to be sod quality (phone report only) \$18.00

(h) Variety separation of Kentucky bluegrass \$18.00 If separated at time of purity analysis \$ 9.00

(i) Sodium hydroxide test for presence of red and/or white wheat \$10.00

(j) Brassica seed chemical identification test \$10.00

(k) Analysis of partially cleaned, uncleaned or field run seed with excessive inert, other crop or weed seeds (per hour) \$16.00

(l) Fescue seed fluorescence test - a test required to determine presence of other fine fescue species in hard fescue and sheep fescue which is required on certified samples \$14.00

(3) Inventory testing for germination: A service to provide opportunity to have carry-over seed stocks except mixtures tested at lowest possible charge. Not an official germination test.

(a) Reports may not be mailed until all tests are completed.

(b) Samples shall be plainly labeled "inventory samples."

(c) Samples shall be reported according to the sender's designation. The laboratory shall assume no responsibility for correct identification. These samples and tests shall not become a part of our permanent record.

(d) The fee for this service shall be one-half the regular germination fee.

(e) Inventory testing for germination will be run as germination space is available, with the understanding that regular service samples have priority.

- (4) Miscellaneous laboratory fees:
 - (a) Rush samples (including phone report if requested at time sample is submitted) \$10.00
 - (b) Phone reports on test result, per call \$ 3.50
 - (c) Preliminary report on germination (phone report only) \$ 8.00
 - (d) Morphological test \$ 8.00 (alfalfa or clover examined under magnification for combine damage.)
 - (e) Additional mailing of report (each destination) \$ 1.50
 - (f) Recopies of reports (minimum fee) \$ 2.50
 - Revised reports (minimum fee) \$ 5.00 (or hourly fee when applicable)
- (g) I.S.T.A. rules test

	PURITY	GERMINATION
Alfalfa, clover	\$20.00	\$14.00
Kentucky bluegrass	\$30.00	\$14.00
Peas, lentils	\$20.00	\$14.00
- (h) Canadian rules test

	PURITY	GERMINATION
Alfalfa, clover	\$20.00	((\$14.00)) \$11.50
Kentucky bluegrass	\$30.00	\$14.00
Peas, lentils	\$20.00	((\$14.00)) \$11.50
- (i) Seed count \$16.00
- (j) Extra charge for samples requiring special preparation for germination, i.e., New Zealand spinach, pelleted seeds, spinach, chard, etc. \$16.00
- (k) Hourly fee for miscellaneous services \$16.00
- (l) Service charge for submitted federal phytosanitary certificates, per certificate \$ 5.00
- (m) All states noxious weed examination \$ 7.00
- (n) Fee for special handling service (i.e., Federal Express, Air Parcel Post, or air freight) for documents or seed samples . \$ 3.50
- (o) Fee for facsimile transmission of documents, per document \$ 3.50

AMENDATORY SECTION (Amending Order 1757, filed 3/31/82, effective 5/1/82)

WAC 16-316-160 PROHIBITED NOXIOUS WEEDS. The following weeds shall be considered prohibited noxious weeds for the purpose of seed certification:

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Austrian fieldcress	Rorippa austriaca (Crantz) Bess.
Field bindweed	Convolvulus arvensis L.
Hedge bindweed	Convolvulus sepium L.
Camelthorn	Alhagi camelorum Fisch.
Canada thistle	Cirsium arvense (L.) Scop.
Dodder	Cuscuta spp.
Hairy whitetop	Cardaria pubescens (C.A. Mey.)
Hoary cress	Cardaria draba (L.) Desv.
Jointed goatgrass	Aegilops cylindrica
Leafy spurge	Euphorbia esula L.
Perennial pepperweed	Lepidium latifolium L.
Perennial sowthistle	Sonchus arvensis L.
Quackgrass	Agropyron repens (L.) Beauv.
Russian knapweed	Centaurea repens L.
Serrated tussock	Nassella trichotoma
Silverleaf nightshade	Solanum elaeagnifolium Cav.
Sorghum perennial such as, but not limited to, johnsongrass, sorghum almum, and perennial sweet sudangrass	Sorghum spp.
Tansy ragwort	Senecio jacobaea L.
Yellow-flowering skeleton weed	Chondrilla juncea L.

AMENDATORY SECTION (Amending Order 1452, filed 5/13/76)

WAC 16-316-185 THE SEED ((PROCESSOR)) CONDITIONER. The seed ((processor)) conditioner shall: (1) Notify the seed

branch, state department of agriculture, of their intent to ((process)) condition seed for certification.

(2) Request the seed branch to inspect its plant to determine if they can be approved to ((process)) condition seed for certification. Upon approval its name shall be added to the list of approved ((processing)) conditioning plants.

(3) Handle all seed for certification in a manner so as to prevent mixture of lots, clearly identifying each lot with a lot number.

(4) Show evidence of clean maintenance. Installations shall be easily accessible for cleaning and inspection and all equipment ((must)) shall be thoroughly cleaned between lots.

(5) Obtain approval from the certifying agency for handling seed for certification in bulk.

(6) Dispose of screenings in compliance with the Washington State Seed Act.

(7) Obtain approval from the certifying agency to ship seed for certification out-of-state for ((processing)) conditioning.

(8) Have his/her permit to ((process)) condition seed for certification rescinded should a subsequent inspection reveal that the ((processing)) conditioning of seed for certification is not being handled in the manner prescribed when the approval was granted and the operator fails to take corrective measures. The name of the establishment ((with)) shall then be removed from the list of approved ((processors)) conditioners, and the growers of seed for certification notified of the same.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-230 ALFALFA SEED CERTIFICATION FEES.

(1) Seedling applications: Due within sixty days after planting, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Seedling application fee:
 - Per variety, per grower \$15.00
 - (b) Late seedling penalty fee: (~~(\$15.00)~~)
\$30.00

This additional fee shall be charged for each seedling application received more than sixty days after planting.

(c) Seedling acreage fee: (per acre) \$ 1.75 (Refundable if acreage is withdrawn before inspection.) Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees are due July 31, however, may be accepted after due date with ten dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due June 15, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Renewal application fee:
 - Per variety, per grower \$15.00
 - (b) Renewal acreage fee: (per acre) \$ 1.75 (Refundable if acreage is withdrawn before inspection.)
 - (c) Late renewal penalty fee: (~~(\$15.00)~~)
\$30.00

This additional fee shall be charged for each renewal application received after June 15.

(3) Reinspection: Other than isolation (each field) (~~(\$20.00)~~)
\$40.00

If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection has been corrected. Only two reinspections are permitted for each field each year.

(4) Production fee includes sampling and tagging per cwt.: \$ 0.50
The sampling and production fees are billed at completion of tests. If none of the seed is tagged, ten cents of the fifty cents cwt. production fee charged is refundable.

(5) Purity and germination test: Fees as established by the director of agriculture.

(6) Fees for retagging, or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

(7) Fees for reissue of tags shall be ten cents a tag with a minimum fee of ten dollars.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-270 BEAN SEED CERTIFICATION FEES.

- (1) Applications: Due July 1, however, may be accepted after due date at the discretion of the certifying agency.
 - (a) Application fee:
 - Per variety, per grower \$15.00
 - (b) Acreage fee:
 - (i) One inspection: (per acre) \$ 1.75
 - One inspection is required for certification of Great Northern, Red Mexican, pinto, pink, and small white beans.
 - (ii) Two inspections: (per acre) \$ 3.50
 - Includes windrow inspection which is required for: Certification of snap beans, kidney beans, and eligibility for shipment into Idaho. For phytosanitary certification see WAC 16-316-327.
 - (iii) Acreage fee is refundable if acreage is withdrawn before inspection.
 - (c) Late application penalty fee: ~~(\$15.00)~~
\$30.00

This additional fee shall be charged per grower for applications received after July 1.

- (2) Reinspection: (each field) ~~(\$20.00)~~
\$40.00

If a field is rejected for reasons other than bacterial diseases at the first inspection, the grower may apply for reinspection after the cause for rejection has been corrected. Only two reinspections are permitted for each field each year.

- (3) Production fee includes sampling and tagging per cwt.: . \$ 0.40
- The production fees shall be billed at ~~((final certification and tagging))~~ the completion of tests.
- (4) Purity and germination tests: Fees as established by the director of agriculture.
- (5) Fees for retagging or services not listed in this rule shall be the most applicable fee established by the director of agriculture.
- (6) Bean seed entered into the certification program shall comply with bean seed quarantine rules. See WAC 16-494-001 through 16-494-062.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-315 PHYTO-SANITARY CERTIFICATION—FEE AND CHARGES. (1) Fee for area and field inspection:

- (a) Field inspection (payable with application):
 - (i) All seed except wheat seed. For each required inspection (per acre or fraction thereof) \$ 4.00
(with minimum fee of \$20.00 per field per inspection)
 - (ii) Wheat seed only. For each required inspection (per acre or fraction thereof) ~~(\$ 75)~~
\$ 1.75

An additional charge of fifty cents per acre shall be charged for each disease requested in excess of two.

- (b) Area inspection (per one hundred pounds) \$ 0.05
- Billed at time certificate is issued with a minimum of twenty dollars and a maximum of one hundred fifty dollars per certificate.
- (2) Late application penalty fee \$10.00
- This additional fee shall be charged for each application received after due date.
- (3) Sampling fee when sampling is required:
 - (a) Beans, peas, lentils, cereal grains (per one hundred pounds) \$ 0.05
 - (b) Other crops (per one hundred pounds) \$ 0.15
 - (4) Serology test: Fee to be established by the state of Idaho.

An official five pound sample is required from each ten thousand pounds or portion thereof. Officially drawn samples will be submitted to: State Plant Pathologist, Idaho Department of Agriculture, P.O. Box 410, Twin Falls, Idaho 83301.

(5) Fees for services not listed in this rule shall be set on the basis of the actual cost to the department of agriculture or the most appropriate fee established shall be used.

(6) Laboratory analysis of plant material: An additional fee of eighteen dollars per field shall be charged when necessary to examine plant material in the laboratory to verify disease.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-350 GRASS SEED CERTIFICATION FEES—SEEDLING APPLICATIONS. (1) All fees for seedlings planted from January 1 through June 30 shall be due ~~((September 1, and all fees for seedlings planted July 1 through December 31 shall be due April 1 of the following year))~~ within sixty days of planting: PROVIDED, That such applications may be accepted after due date at the discretion of the certifying agency upon payment of the late seedling penalty fee.

- (a) Seedling application fee:
 - Per variety, per grower \$15.00
 - (b) Late seedling penalty fee: (per kind) ~~(\$15.00)~~
\$30.00

This additional fee shall be charged for seedling applications received after due date.

- (c) Seedling producing application fee:
 - Per variety, per grower \$15.00
- Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees shall be due July 31: PROVIDED, That such application may be accepted after due date with ten dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due May 1: PROVIDED, That such applications may be accepted after due date at the discretion of the certifying agency upon payment of the late renewal penalty fee.

- (a) Renewal application fee:
 - Per variety, per grower \$15.00
 - (b) Late renewal penalty fee: (per kind) ~~(\$15.00)~~
\$30.00

This additional fee shall be charged for renewal applications received after May 1.

- (c) Inspection fee per field \$30.00
- (3) Annual grasses inspection fee: (per acre) \$ 1.75
- Applications are due within sixty days after planting.
- (4) Reinspection: Other than isolation (each field) ~~(\$20.00)~~
\$40.00

If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection is corrected. Only two reinspections are permitted for each field each year.

(5) Inspection and final certification fees: Inspection and final certification fees shall be based on pounds sampled and billed upon completion of required tests (Option A). Those dealers requesting sampling and tagging privileges and/or participation in Option B shall sign a memorandum of agreement that shall expire on June 30 of each year. Memorandum may be terminated by the director if conditioner violates certification standard or requirements of memorandum.

- (a) Option A: When based on pounds sampled, and billed at completion of required laboratory tests, the fees shall be:
 - (i) ~~((Inspection and))~~ Final certification fee \$ 0.80
 - per one hundred pounds. (If no seed is tagged, twenty cents of the final certification fee is refundable upon request.)
 - (ii) Service fee for out-of-state origin \$ 0.30
 - per one hundred pounds.
 - (iii) Blend fee shall be as established by blend rule, and in addition to above fees. However, blend fee not applicable to salvage blends.
 - (iv) Payment of fees shall be the responsibility of the person signing the application. However, conditioner may assume this responsibility.

- (b) Option B: When based on pounds tagged after required laboratory tests are completed, the fees shall be:
 - (i) ~~((Inspection and))~~ Final certification fee \$ 1.10
 - per one hundred pounds. (Minimum fee per tagging) \$10.00
 - (ii) Service fee for out-of-state origin \$ 0.65
 - per one hundred pounds.
 - (iii) Blend fee (in addition to fee established by blend rule) shall be payable upon completion of blend on total weight of blend, and shall be as follows:
 - (A) Washington origin certified seed used in blend \$ 1.00
 - per one hundred pounds.

(B) Out-of-state origin certified seed used in blend \$ 0.60 per one hundred pounds: PROVIDED, That those fees listed in (a) and (b) above are not applicable to certified seed that is tagged and sealed, and on which final fees have been paid.

(C) A refund or credit shall be issued for the percent of the blend lot not tagged. (For example, if forty percent of the blend is not tagged, forty percent of the fees charged under Option B above is refundable.) Requests for refunds shall be made by June 30 following final disposition of the blend.

(6) Payment of fees shall be the responsibility of the conditioner. A conditioner choosing this program shall handle all certified grasses in his warehouse under this program for the entire crop year. Upon termination or nonrenewal of Option B memorandum of agreement, conditioner shall be responsible for Option A fees on all certified seed not tagged at termination date.

(7) Fees for services such as O.E.C.D. and sod quality, etc., shall be in addition to the fees listed in these standards.

(8) Purity and germination test fees shall be as established by the director of agriculture.

(9) Fees for retagging, or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

(10) Fees for reissue of tags shall be ten cents per tag with a minimum fee of ten dollars.

AMENDATORY SECTION (Amending Order 1504, filed 3/31/77)

WAC 16-316-360 **GRASS SEED—ISOLATION REQUIREMENTS.** (1) A seed field to be eligible for the production of foundation, registered or certified seed ((~~must~~)) shall be isolated from any other variety or strain of the same species in accordance with the requirements in the following table:

Symbol for Type of Reproduction	Minimum Isolation Distance Required for Fields Producing:		
	Foundation	Registered	Certified
Strains at least 80% Apomictic —A	60 feet	30 feet	15 feet clean fallow
Highly Self-Fertile Species —S	60 feet	30 feet	15 feet clean fallow
All Cross-Pollinated Species —C	900 feet	300 feet	165 feet

(2) Isolation required between different classes of the same variety of cross-pollinated (C) species:

Class Seed Planted	Class Seed ((Planted)) Produced	Distance Required From Nearest Field Producing:
Breeder	Foundation	Registered ————— 150 feet Certified ————— 225 feet
Foundation	Registered	Certified ————— 75 feet

(3) Isolation requirements between classes of the same variety of apomictic (A) and self-fertile (S) species is as follows:

(a) Field producing foundation or registered shall be a minimum of ((+5)) fifteen feet from field planted with different class of same variety.

(b) Field producing certified seed shall be a minimum of five feet from field planted with different class of the same variety.

(4) Border removal for grass isolation: If it is not possible to provide minimum isolation distances for fields exceeding ((5)) five acres in area, border removal is permitted. Border removal requires removal of the portion of the field being certified that is adjacent to the contamination source. Minimum distances required for border removal are as follows:

Border to be removed from the field being certified	Minimum Isolation Distance Required for Fields Producing:		
	Foundation	Registered	Certified
0 feet	900 ft.	300 ft.	165 ft.
15 feet	450 ft.	150 ft.	75 ft.

(a) The grower ((~~must~~)) shall apply for certification of the entire field and before inspection clearly stake off the border removal portion.

(b) A reinspection ((~~will~~)) shall be required after harvest of the certified portion of the field.

(c) The border removal portion of the field may be harvested for uncertified seed under the following conditions:

(i) The entire field ((~~must~~)) shall pass all certification requirements except for isolation at time of inspection. The field report will show rejection due to lack of isolation.

(ii) The grower ((~~will~~)) shall harvest the certified portion of the field first and deliver this seed to the processing plant. After seed is weighed and lotted in, the grower ((~~will~~)) shall request a reinspection; if everything is in order, the field ((~~will~~)) shall be passed and the border strip can be harvested as uncertified seed.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-370 **GRASS SEED STANDARDS.** Seed standards for grass shall be as follows:

PART ONE OF TABLE

Crop & type of Reproduction	Symbol (as defined in WAC 16-316-360)	Min. % Germ Fndt.		Min. % Pure Fndt.		Max. % Inert Fndt.	
		Reg.	Cert.	Reg.	Cert.	Reg.	Cert.
Bluegrass							
Sherman	(A)	70	70	90	90	10	10
Canby	(A)	70	70	90	90	10	10
Kentucky	(A)	80(e)	80(e)	97	97(d)	3	3
Merion Kentucky	(A)	80(e)	80(e)	92	92(d)	8	8
Canada and Upland	(A)	80	80	96	92(d)	4	8
Bromegrass							
Smooth Brome	(C)	80	85	95	95	5	5
Meadow Brome	(C)	80	85	95	95	5	5
Mountain Brome	(S)	85	85	95	95	5	5
Deertongue	(C)	50	50	97	95	3	5
Fescue							
Tall and meadow	(C)	80	((85)) 80	95	97	5	3
Hard and sheep, Idaho, Red Fescue	(C)	80	((85)) 80	95	95	5	5
Other Fescue (Chewings)	(C)	80	((90)) 80	95	95	5	5
Orchardgrass	(C)	80	85 80 for Pennlate & Latar	85	90	15	10
Ryegrass	(C)	85	90	96	97	4	3
Pennfine	(C)	85	85	96	97	4	3
Timothy	(C)	80	85	97	97	3	3
Wheatgrass							
Beardless	(C)	80	((85)) 80	90	90	10	10
Bluebunch	(C)	80	((85)) 80	90	90	10	10
Intermediate	(C)	80	((85)) 80	95	95	5	5
Pubescent	(C)	80	((85)) 80	95	95	5	5

Crop & type of Reproduction	Symbol (as defined in WAC 16-316-360)	Min. % Germ Fndt.		Min. % Pure Fndt.		Max. % Inert Fndt.	
		Reg.	Cert.	Reg.	Cert.	Reg.	Cert.
Western, Streambank, Thickspike	(C)	80	((85) 80	90	90	10	10
Crested, and Siberian	(C)	80	((85) 80	90	95	10	5
Slender	(S)	80	((85) 80	90	95	10	5
Tall	(C)	80	((85) 80	95	95	5	5
Indian Ricegrass	(C)	80*	80*	95	90	5	10
Puccinellia distans	(C)	80	80	95	95	5	5
Basin Wildrye and Russian Wildrye	(C)	80	80	90	90	10	10
Bentgrass	(C)	85	85	98	98	2	2
Redtop	(C)	80	80	92	92	8	8
Ann. Canarygrass	(C)	85	85	99	99	1	1

PART TWO OF TABLE

Crop & type of Reproduction	Max. % Weeds(b) Fndt.		Max. % Other Crop Fndt.(a)		Max. No. seeds of other grass spp.	
	Reg.	Cert.	Reg.	Cert.	Fndt.	Reg.
Bluegrass Sherman	.05	.3	.1	.5	1/10 grams	1/1 gram
Canby	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Kentucky	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Merion Kentucky	.05	.3	.1	.5(d)	1/10 grams	2/1 gram
Canada, Upland	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Bromegrass Smooth Brome	.05	.3(c)	.1	.5	1/50 grams	10/50 grams
Meadow Brome	.05	.3(c)	.1	.5	1/50 grams	10/50 grams
Mountain Brome	.3	.5	.5	1.0	1/50 grams	10/50 grams
Deertongue	.50	.5(c)	1.0	1.0	1%	—
Fescue Tall and Meadow	.03	.3(c)	.1	.5	2/50 grams	10/50 grams
Hard and sheep, Idaho, Red, Fescue	.03	.3(c)	.1	.5	1/50 grams	5/50 grams
Other Fescue (Chewings)	.03	.3(c)	.1	.5	1/50 grams	5/50 grams
Orchardgrass	.03	.3(c)	.1	.5	3/50 grams	10/50 grams
Ryegrass	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Pennfine	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Timothy	.1	.3	.1	.5	1/50 grams	5/50 grams

Crop & type of Reproduction	Max. % Weeds(b) Fndt.		Max. % Other Crop Fndt.(a)		Max. No. seeds of other grass spp.	
	Reg.	Cert.	Reg.	Cert.	Fndt.	Reg.
Wheatgrass Beardless	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Blue Bunch	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Intermediate	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Pubescent	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Western, Streambank	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Crested, and Siberian	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Slender	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Tall	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Indian Ricegrass	.3	.5	.5	1.0	1/50 grams	5/50 grams
Puccinellia distans	.3	.5	.5	1.0	1/10 grams	1/1 grams
Basin Wildrye and Russian Wildrye	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Bentgrass	.3(g)	.4(g)	.2	.6		
Redtop	.3(g)	.5(g)	.5	2		
Ann. Canarygrass	.1	.3	1/lb.	3/lb.		

The following (a)-(f) are notes to the above table.

(a) Not to exceed twenty-five hundredths of one percent other grass species for certified seed.

(b) Grass seed shall not contain more than forty-five per pound for registered seed, ninety per pound for blue tag seed, singly or collectively, of objectionable weed seeds. (See current general rules.) Grass seed shall be free of the seed of prohibited noxious weeds.

(c) A tolerance of five-tenths of one percent may be allowed for samples containing weedy bromus spp.: PROVIDED, That the total of all other weed seeds does not exceed three-tenths of one percent.

(d) A three percent tolerance of other Kentucky Bluegrass varieties may be allowed in Merion. (Note: Containing minimum ninety-two percent Merion.) In Canada Bluegrass, three percent Kentucky Bluegrass may be permitted.

(e) A standard tetrazolium (two hundred seed) test may be used in lieu of germination test.

(f) A tolerance of eight-tenths of one percent may be allowed in registered and certified wheatgrass containing small grain seed: PROVIDED, That the total of all other crop seed does not exceed one-tenth of one percent for registered class and five-tenths of one percent for certified class.

(g) Blue tag seed shall not contain over nine hundred seeds per pound, singly or collectively, of the following weeds: Plaintain spp., Big Mouse-ear Chickweed, Yarrow, Spotted Cat's Ear, and Dandelion.

(i) A maximum of .50 percent weed seed may be allowed in bentgrass containing silver hairgrass: PROVIDED, That the total of all other weed seed does not exceed .40 percent.

(ii) 1.50 percent other fine bentgrasses and .50 percent redtop may be allowed in certified bentgrass containing a minimum of 98.00 percent total bentgrass.

* or seventy percent by Tz test

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-440 RED CLOVER SEED CERTIFICATION FEES.

(1) Seedling applications: Due within sixty days after planting, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Seedling application fee:
Per variety, per grower \$15.00
- (b) Late seedling penalty fee: ~~(\$15.00)~~
\$30.00

This additional fee shall be charged for each seedling application received more than sixty days after planting.

- (c) Seedling acreage fee: (per acre) \$ 1.75
(Refundable if acreage is withdrawn before inspection.) Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees are due July 31, however, may be accepted after due date with fifteen dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due June 15, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Renewal application fee:
Per variety, per grower \$15.00
- (b) Renewal acreage fee: (per acre) \$ 1.75
(Refundable if acreage is withdrawn before inspection.)
- (c) Late renewal penalty fee: ~~(\$15.00)~~
\$30.00

This additional fee shall be charged for each renewal application received after June 15.

- (3) Reinspection: Other than isolation (each field) ~~(\$20.00)~~
\$40.00

If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection has been corrected. Only two reinspections are permitted for each field each year.

- (4) Production fee: Includes sampling and tagging per cwt.: \$ 0.50
The production fee is billed at completion of tests. If none of the seed is tagged, ten cents of the fifty cents cwt. production fee charged is refundable.

(5) Purity and germination test: Fees as established by the director of agriculture.

(6) Fees for retagging, or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

(7) Fees for reissue of tags shall be ten cents a tag with a minimum fee of ten dollars.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-474 FIELD PEA—LENTIL—SOYBEAN—SORGHUM—SMALL GRAIN—APPLICATION AND FEES. (1) An application for seed certification with application fee, field inspection fee, and late application fee (if due) for each field shall be filed by or for each grower with Washington State Crop Improvement Association, Inc., the certifying agency for seeds of field pea, lentil, soybean, sorghum and small grains.

- (2) Due dates:
 - (a) Field pea - June 1
 - (b) Lentil - June 1
 - (c) Soybean - July 1
 - (d) Sorghum - July 15
 - (e) Small grains - June 1 for both winter varieties and spring varieties.

(f) After due date, an application with late application fee may be accepted for service.

- (3) Fees:
 - (a) Application fee per variety per grower ~~(\$10.00)~~
\$15.00
 - (b) Field inspection fee per acre ~~(\$ 1.85)~~
\$ 2.10
 - (c) Late application fee ~~(\$10.00)~~
\$15.00
 - (d) Reinspection fee ~~(\$20.00)~~
\$30.00

minimum for each field which did not pass field inspection plus ~~(\$0.20)~~ \$0.40 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is ~~(\$20.00)~~ \$30.00.

- (e) Final certification fee ~~(\$ 0.14)~~
\$ 0.17
per cwt. of clean seed sampled, which shall be charged to conditioning plant, or production fee ~~(\$ 0.14)~~
\$ 0.17

per cwt. of production from fields inspected which is utilized for seed, which shall be charged to conditioning plant or, if none, to applicant.

- (f) Sampling fee \$ 0.10

per cwt. of clean seed sampled, with minimum charge of ~~(\$10.00)~~ ten dollars per sample, which shall be charged to conditioning plant in lieu of mechanical sampling.

(4) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee shall be refunded upon request until June 30 of the year following harvest.

(5) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-525 FIELD PEA—LENTIL—SOYBEAN—SORGHUM—SMALL GRAIN—ELIGIBLE VARIETY AND STOCK SEED.

Kind	Variety
Barley, spring	Advance, Belford, Andre, <u>Camelot</u> (P), Clark, Columbia (P), Coughbar, Flynn, Gus (P), Harrington, Klages, Kombar (P), Lindy (P), Menuet (P), Morex, Nova (P), Onda (P), Piston (P), Poco (P), Seven (P), Steptoe, WestBred Gustoe (P), WestBred 501 (P), WestBred Sprinter (P), Whitford (P)
Barley, winter	Boyer, Hesk, Kamiak, Luther, Mal, Scio, Showin
Oat, spring	Appaloosa, Border, Cayuse, Monida, Ogle, Park,
Rye, winter	Puma, Rymin
Wheat, spring	Bliss, Bronze Chief (P), Copper, <u>Czar</u> (P), Dirkwin, Edwall, Fielder, Kodiak (P), Landmark (P), McKay, ((NK-751-(P);)) Owens, Penawawa, <u>Spillman</u> , Tammy (P), Treasure, Urquie, <u>Wadual</u> , <u>Wakanz</u> , Wampum, Wared, Waverly, ((WestBred-803-(P);)) WestBred 881 (P), WestBred 906R (P), WestBred 911 (P), WestBred 926 (P), <u>WestBred Sprite</u> , WS-1 (P), W-444 (P), Yecora Rojo
Wheat, winter	Andrews, Basin (P), Batum, Cashup (P), Crew Daws, Dusty, Hatton, Hill-81, <u>Hyak</u> , John, Lewjain, <u>Madsen</u> , McCall, Moro, Nugaines, Paha, <u>Sprague</u> , Stephens, Tres, Tyee, Wanser
Triticale, spring	Juan, Whitman
Triticale, winter	Flora

(P) means proprietary

The eligibility of other varieties may be approved by the certifying agency.

Foundation seed is eligible to produce registered seed or certified seed.

Registered seed is eligible to produce certified seed.

Certified seed is not eligible for recertification.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-660 WHITE CLOVER AND TREFOIL SEED CERTIFICATION FEES.

(1) Seedling applications: Due within sixty days after planting, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Seedling application fee:
Per variety, per grower \$15.00
- (b) Late seedling penalty fee: ~~(\$15.00)~~
\$30.00

This additional fee shall be charged for each seedling application received more than sixty days after planting.

- (c) Seedling acreage fee: (per acre) \$ 1.75
(Refundable if acreage is withdrawn before inspection.) Required of seedling fields to be harvested for certification the year of planting. Notification of

seedling field to be harvested for certification and required fees are due July 31, however, may be accepted after due date with ten dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due June 15, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Renewal application fee: Per variety, per grower \$15.00
(b) Renewal acreage fee: (per acre) \$ 1.75 (Refundable if acreage is withdrawn before inspection.)
(c) Late renewal penalty fee: ((5+5.00)) \$30.00

This additional fee shall be charged for each renewal application received after June 15.

(3) Reinspection: Other than isolation (each field) ((520.00)) \$40.00

If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection has been corrected. Only two reinspections are permitted for each field each year.

(4) Production fee: Includes sampling and tagging per cwt. \$ 0.50
The production fee is billed at completion of tests. If none of the seed is tagged, ten cents of the fifty cents cwt. production fee charged is refundable.

(5) Purity and germination test: Fees as established by the director of agriculture.

(6) Fees for retagging or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

(7) Fees for reissue of tags shall be ten cents a tag with a minimum fee of ten dollars.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-800 GRASS VARIETIES ELIGIBLE. (1) Following are the grass varieties eligible and the certifying scheme for each:

- Bentgrass: (subject to poa annua quarantine) Seaside Creeping***, Putter Creeping, Emerald Creeping**
Big Bluegrass: Sherman**
Canada Bluegrass: (subject to poa annua quarantine) Reubens**
Canby Bluegrass: Canbar**
Kentucky Bluegrass: (subject to poa annua quarantine) A-34 (Bensun)**, Abbey**, Adelphi**, Alpine, Amason* (Amazon*), America*, Ampellia*, Argyle**, Banff**, Barblue*pvv, Baron**, Birka*, Bono (Birdie)*, Bronco, Chateau**, Cheri (Golf)*, Classic**, Coventry**, Destiny, Dawn, Eclipse*, Enmundi*pvv, Estate, Freedom*, Fylking**, Georgetown**, Geronimo*, Glade**, Haga*, Harmony*

- Holiday*
Huntsville
Ikone**
Julia*
Kenblue*
Kyosti*
Leikra
Liberty**
Limosine
Majestic**
Merion**
Monopoly*
Mystic*
Nassau**
Newport**
Nugget*
Nutop*
Parade*
Park**
Paso
Pennstar*
Plush*
Princeton 104*
Ram I*pvv
Rugby*
Suffolk*
Sving*
Sydsport*
S-21**
Tendos
Touchdown**
Troy**
Wabash*
Welcome*
Rough Bluegrass: Colt
Meadow Brome: Regar**
Mountain Brome: Bromar**
Smooth Brome: Baylor*, Beacon*, Bravo, Jubilee, Manchar**, Rebound*, Saratoga*
Fescue: (subject to poa annua quarantine - except tall fescue) Countess Chewings**pvv, Arid Tall*, Barcel Tall**pvv, Barfalla Chewings**, Barfalla Chewings**, Baruba Chewings, Durar Hard**, Finelawn 1-Tall**, Joseph Idaho**, Nezpurs Idaho*pvv, Logro Slender Creeping Red**pvv, Chesapeake Tall*, Manade Tall*, Mesa-Tall Turf Type, Rebel Tall*, Safe Tall*, Southern Cross Tall, Covar Sheep**, Fawn Tall*, Beaumont Meadow*, First Meadow**, Forager Tall*, Wrangler-Tall Turf Type
Orchardgrass: Hay King*, Hay King II*, Latar**, Natsumidori (summer green)*, Paiute**, Pennlate*, Potomac*
Redtop: Streaker*
Indian Ricegrass: Nezpar**
Perennial Ryegrass: (subject to poa annual quarantine) All*Star**, Friend**pvv, Ranger**

- Puccinellia distans: Fults*
- Timothy: Clair*
Climax*
Hokuo*
Hokusen*
Kempus*
Kunpu*
Nosappu*
Promesse*
Senpoku*
- Wheatgrass: Whitmar Beardless**
Secar Bluebunch**
Fairway Crested*
Ruff Crested*
Nordan Crested**
Ephraim Rhizomatous Crested**
Greenar
 Intermediate**
Oahe Intermediate*
Tegmar Intermediate*
Siberian**
Greenleaf Pubescent*
Luna Pubescent**
Topar Pubescent**
P-27 Siberian**
Sodar Streambank**
Critana Thickspike**
Alkar Tall**
- Basin Wild Rye: Magnar**
- Russian Wild Rye: Bozoisky Select**

(2) Variety restrictions.

NO. OF SEED HARVESTS
FOUNDATION REGISTERED CERTIFIED

(a) Kentucky Bluegrass:		
Baron	5	5
Birka	2 + 3 Cert.	5
Enmundi	4	5
Georgetown	5	5
Geronimo	6	6
Kenblue	5	7
Majestic	3 + 5 Cert.	5
Parade	5	5
Ram-I	2	6
Rugby	3 + 2 Cert.	5
Sydsport	5	5
Touchdown	2 + 5 Cert.	5
(b) Orchardgrass:		
Pennlate	3	6

AMENDATORY SECTION (Amending Order 1930, filed 5/22/87)

WAC 16-316-810 RED CLOVER VARIETIES ELIGIBLE. (1) Following are the red clover varieties eligible and the certification scheme for each:

- Arlington*
- Atlas*
- Chesapeake*
- Flare*
- Flores*
- Florie*
- Hamidori*
- Kenland*
- Kenstar*pvvV
- Lakeland*
- Marathon*
- Persist*
- Prosper I*
- Redland*pvvV
- Redland II*
- Redman*
- Reddy*
- Ruby**
- Sapporo*
- Tristan*
- ((W-116*))

(2) Variety restrictions. Kenstar: No seed production permitted year of seeding.

AMENDATORY SECTION (Amending Order 1976, filed 5/13/88)

WAC 16-316-820 ALFALFA VARIETIES ELIGIBLE. (1) Following are the alfalfa varieties eligible and the certification scheme for each:

- Agate*
- Anchor*
- Anstar*
- Answer*
- Aquarius*
- Apollo II*
- Armor*
- Arrow*
- Atlas*
- Atra-55*
- Baker*pvvV
- Big Ten*
- Blazer*
- Centurion*
- Challenger*
- Chief**
- Cimarron*
- Classic*
- Commonbor*
- Crown*
- Crusader**
- DK-125*
- DK-135*
- Drummor*
- Eagle*
- Elevation*
- Endure*
- Excaliber*
- Gladiator*
- G-2815*
- G-7730*
- GH-737**
- Hi-Phy*
- Honeoye*pvvV
- Iroquois*
- Julus*
- Legend*
- Magnum III*
- Maxim*
- Mesilla**
- Mohawk*
- Oneida*pvvV
- Oneida VR*
- Peak*
- Perry*
- Phytor*
- Polar II*
- Preserve*
- Primal*
- Ranger**
- Riley*
- Saranac*
- Saranac AR*pvvV
- Shenandoah*
- Shield*
- Sparta*
- Spredor 2*
- Summit*
- Sure*
- Sverre*
- SX-217*
- SX-418*
- Trumpetor*
- Turbo*
- Ultra*
- Vernal*
- Vancor*
- Vernema*
- Vista*
- WL-220*
- Weevlchek*
- WL-221*

- WL-225((*))pvpV
- WL-312*
- WL-313*
- WL-315*pvpV
- WL-316*pvpV
- WL-318*
- WL-320**pvpV
- Wrangler*
- 88*
- 120*
- 123*
- 130*
- 521*
- 520*
- 526*
- 530*
- 531
- 532*
- 581*
- 5262
- 5432*
- 5444*
- 624*
- 629*

(2) Variety restrictions.

Breeder	NO. OF SEED HARVESTS		
	Foundation	Registered	Certified
Answer	2		5
Apollo II			3
Baker	2	3	6
Blazer		3	
Challenger	2	3	5
Chief		3	5
Crusader		3	5
Drummor	2	3	5
G-7730		3	5
GH 737		3	5
Honeoye		3	6
Iroquois		3	6
Oneida		3	6
Peak		3	
Perry	2	3	6
Preserve	2	3	5
Polar II	2	3	5
Saranac		3	6
Saranac AR		3	6
Spredor 2	2	3	5
Trumpetor	2	3	5
Vancor	2	3	5
Vernema		4	6
WL-221		3	
WL-225		3	5
WL-313		3	
WL-315		3	5
WL-320		3	5
WL-316		3	5
Wrangler		3	6
120		3	
123		2	4
130		3	5
526		3	5

WSR 89-07-075

PROPOSED RULES

DEPARTMENT OF CORRECTIONS

[Filed March 21, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Corrections intends to adopt, amend, or repeal rules concerning reimbursement for criminal justice costs and contingency plan expenses, amending chapter 137-70 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 16, 1989.

The authority under which these rules are proposed is RCW 72.72.040.

The specific statute these rules are intended to implement is chapter 72.72 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: March 20, 1989

By: Chase Riveland
Secretary

STATEMENT OF PURPOSE

Title and Purpose of Rule: Amending chapter 137-70 WAC currently, reimbursable impact rates for criminal justice costs and contingency plan expenses.

Statutory Authority: RCW 72.72.040.

Chapter Implemented: Chapter 72.72 RCW.

Purpose of this Rule: To provide for reimbursement to political subdivisions for jail facility costs incurred in the apprehension of inmate escapees and for the filing of criminal complaints against or by the subdivision, as a result of inmate escapes, or as the result of other criminal complaints.

Reason for Proposed Amendment: To increase the period of reimbursement from July 1, 1987, through July 31, 1988, and both the period and rate of reimbursement from August 1, 1988, through June 30, 1989, at a rate of \$30.00 for this period.

Person Responsible for Drafting, Implementing and Enforcing the Rule: Gary L. Banning, Administrator, Office of Contracts and Regulations, Department of Corrections, P.O. Box 9699, Olympia, Washington 98504, (206) 753-5770.

Persons or Organization Proposing the Rule: Department of Corrections.

Agency Comments and Recommendations: None.

The amendment of this rule is not necessitated by federal law or federal or state court actions.

The amendment of this rule will have no economic impact on small businesses.

AMENDATORY SECTION (Amending Order 87-04, filed 11/3/87)

WAC 137-70-040 REIMBURSABLE IMPACTS/RATES—CRIMINAL JUSTICE COSTS. Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

(1) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These costs are reimbursable at the following rates:

(a) \$19.03 per hour for the period July 1, 1985, through June 30, 1986.

(b) \$19.81 per hour for the period July 1, 1986, through June 30, 1989.

(2) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates:

(a) \$45.50 per hour from July 1, 1985, through June 30, 1986.

(b) \$47.37 per hour from July 1, 1986, through June 30, 1989.

(3) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees and jury fees. These costs are reimbursable at the following maximum rates:

(a) Judges – \$42.41 per hour from July 1, 1985, through June 30, 1986, and \$44.15 per hour for the period July 1, 1986, through June 30, 1989. These costs shall include the services of court clerks and bailiffs.

(b) Court reporters – \$19.08 per hour from July 1, 1985, through June 30, 1986, and \$19.86 per hour for the period July 1, 1986, through June 30, 1989.

(c) Transcript typing services – \$3.80 per page from July 1, 1985, through June 30, 1986, and \$3.96 per page for the period July 1, 1986, through June 30, 1989.

(d) Expert witnesses – \$63.86 per hour from July 1, 1985, through June 30, 1986, and \$66.48 per hour for the period July 1, 1986, through June 30, 1989.

(e) Witness fees/nonexpert – jury fees – reimbursable at the rate established by the local governmental legislative authority up to a maximum of \$28.67 per day for the period July 1, 1985, through June 30, 1986, and \$29.85 for the period July 1, 1986, through June 30, 1989.

(4) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the following maximum rate: \$15.00 per inmate day from July 1, 1985, through June 30, 1987, ~~(and)~~ \$18.00 for the period July 1, 1987, through July 31, 1988, and \$30.00 for the period August 1, 1988, through June 30, ~~(1988)~~ 1989.

(5) Coroner – Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the department as reasonable.

(6) Medical costs – Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the department. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

WSR 89-07-076

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF ECOLOGY

[Memorandum—March 21, 1989]

NOTICE OF INTENTION TO DESIGNATE THE "CITY OF BLAINE GROUND WATER MANAGEMENT AREA" AND DEVELOP A GROUND WATER MANAGEMENT AREA

Ecology intended to designate on February 14, 1989, the Blaine area as a ground water management area in accordance with chapter 173-100 WAC, Ground water management area and programs.

Ecology was unable to do that designation because the Blaine area had not yet been placed on the general schedule (WAC 173-100-060). A public hearing to consider the proposed general schedule was held on March 21, 1989, in Lacey, Washington. Adoption of the general schedule occurred on March 31, 1989. The Blaine area was ranked number 16 on the general schedule of that date.

Designation of the Blaine area as a ground water management area will take place on April 25, 1989. Interested persons may request information by contacting: Doug Rushton, Water Resources Program, Washington Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711.

WSR 89-07-077

ADOPTED RULES DEPARTMENT OF LICENSING

[Order PM 825—Filed March 21, 1989—Eff. June 1, 1989]

I, Mary G. Faulk, director of the Department of Licensing, do promulgate and adopt at the Highways-Licenses Building, 4th Floor, Olympia, Washington, the annexed rules relating to new WAC 308-128E-011 and repealing WAC 308-128E-010.

This action is taken pursuant to Notice No. WSR 89-04-001 filed with the code reviser on January 19, 1989. These rules shall take effect at a later date, such date being June 1, 1989.

This rule is promulgated pursuant to RCW 18.44.320 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 March 21, 1989.

By Mary G. Faulk
Director

NEW SECTION

WAC 308-128E-011 ADMINISTRATION OF FUNDS HELD IN TRUST. The escrow agent shall be responsible for all funds received from any principal or any party to an escrow transaction or escrow collection account and shall hold the funds in trust for the purposes of the transaction or agreement and shall not utilize such funds for the benefit of the agent or any person not entitled to such benefit. The escrow agent shall establish a trust bank account(s) in a recognized Washington state depository. The escrow agent is responsible for depositing, holding, disbursing, and accounting for funds in trust as provided herein.

(1) The trust bank account(s) shall be designated as a trust account in the name of the escrow agent as certified. Trust bank accounts shall be noninterest bearing demand deposit accounts except as follows:

(a) Interest-bearing trust bank accounts or dividend earning investment accounts containing funds pertaining to an individual escrow transaction or escrow collection account may be established by the agent if directed by written agreement signed by the principals to the transaction and specifying the manner of distribution of accumulated interest to the parties to the transaction.

(b) Interest-bearing trust bank accounts or dividend-earning investment accounts containing only funds held on behalf of an owner, vendor, lessor, etc., involving escrow collections may be established by the agent when directed by written agreement or directive signed by the principals: PROVIDED, That all interest or earnings shall accrue to the principals as directed in the agreement.

(2) The agent shall establish and maintain a system of records and procedures as provided in this section. Any alternative records or procedures proposed for use by the

escrow agent shall be approved in advance by the department.

(3) The agent is responsible for the disbursement of all funds received and held in trust, whether disbursed by personal signature, signature plate, or signature of another person authorized to act on the agents behalf.

(4) All funds received for any reason pertaining to an escrow transaction or collection account shall be deposited in the escrow agents trust bank account(s) not later than the first banking day following receipt thereof except funds owned exclusively by the agent.

(5) All funds received shall be identified by the day received and by the amount, source, and purpose on either a cash receipts journal or duplicate receipt which shall be retained as a permanent record.

(6) All deposits to the trust bank account(s) shall be documented by a duplicate bank deposit slip, validated by bank imprint or attached deposit receipt which shall bear the signature of the authorized representative of the agent indicating that the funds were actually deposited into the proper trust bank account. Receipt of funds by wire transfer are to be posted in the same manner as other receipts and there shall be a traceable identifying name or number supplied by the financial institution or transferring entity. The agent must also make arrangements for a follow-up "hard copy" receipt for the deposit.

(7) An individual client's ledger sheet shall be established and maintained for each escrow transaction for which funds are received in trust and to which all receipts and disbursements shall be posted.

(a) Credit entries must show the date of deposit or wire transfer, amount, and name of remitter.

(b) Debit entries must show the date of check, check number, amount of check, and name of payee.

(8) The reconciled trust bank account(s) must equal at all times the outstanding trust liability to clients. The outstanding trust liability to clients must equal the trial balance of all escrows with undisbursed balances.

(9) The agent shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account receipts and disbursement records. Such reconciliations are to be retained as permanent records.

(10) All disbursement of trust funds shall be made by check, drawn on the trust bank account, and identified on the check as pertaining to a specific escrow transaction or collection account except as provided in (a) through (e) of this subsection. The number of each check, amount, date, payee, and the specific client's ledger sheet debited must be shown in the cash register or cash disbursement journal and all data must agree exactly with the check as written.

(a) No disbursement from the trust account shall be made based upon wire transfer receipt until the deposit has been verified.

(b) The escrow agent must make arrangements with the financial institution in which the trust bank account is located to provide a follow-up "hard copy" debit memo when funds are disbursed via wire transfer.

(c) The escrow agent shall retain in the transaction file a copy of instructions signed by the owner of funds to be wire-transferred which identifies the receiving entity and account number.

(d) Transfers between closing escrows may be made by ledger entries alone provided a transfer form is used containing the date of the transfer, the amount of the funds being transferred, the identity of the escrow accounts being debited and credited, and the signature of the person authorized to sign checks on the escrow bank account. Intra-bank debit memo transfer forms may be used only where the escrow accounts involved in the transfer are closed through the same bank account. The authorization for the transfer must be placed in each escrow file involved.

(e) Transfers between collection escrows of a recurring nature must be authorized by standing instructions on file from the appropriate parties.

(11) Voided checks written on the trust bank account shall be permanently defaced and shall be retained.

(12)(a) A separate check shall be drawn on the trust bank account payable to the escrow agent as certified, for each escrow fee earned as set forth in the escrow instructions or settlement statement upon the closing of the escrow transaction. Each check for escrow fees shall be identified to the transaction to which it applies.

(b) Collection account fees may be withdrawn by a single check provided such check is supported by a schedule of fees identified to each individual account. Such fees shall be withdrawn at least once monthly or as provided in the collection contract agreement if the fees are payable for a greater term than monthly.

(13) No deposits to the trust bank accounts shall be made of funds that do not pertain to an escrow transaction or not received in connection with an escrow collection account, or that belong to the agent, including fees to "open" the bank account or to keep the account from being closed.

(14) No disbursement from the trust bank account shall be made:

(a) For items not pertaining to a specific escrow transaction or escrow collection account;

(b) In advance of the closing of an escrow transaction, or before the happening of a condition set forth in the escrow instructions, to any person or for any reason without a written release from all principals of the escrow transaction or collection account, except that if the earnest money agreement terminates according to its own terms prior to closing, disbursement of earnest money funds shall be made as provided by the earnest money agreement without a written release unless the funds are handled as provided in WAC 308-128D-060;

(c) Pertaining to a specific escrow transaction or collection account in excess of the actual amount held in the trust bank account in connection with such account;

(d) In payment of a fee owed to any employee of an agent or in payment of any business expense of the agent. Payment of fees to employees of an agent or of any business expense of the agent shall be paid from the regular business bank account of the agent;

(e) For bank charges of any nature. Arrangements must be made with the bank to have any such charges

applicable to the trust bank accounts charged to the regular business bank account, or to provide a separate statement of bank charges so that they may be paid from the agents regular business bank account;

(f) For preauthorization of payments by the financial institution for recurring expenses such as mortgage payments on behalf of the owner if the account contains tenant security deposits or funds belonging to more than one client;

(g) Of funds received as a damage or security deposit involving a lease or rental contract, to the property owner or to any person(s) without the written authority of the lessee. Such funds are to be held until the end of the tenancy when they are to be disbursed to the person(s) entitled to the funds as provided by the terms of the rental or lease agreement and consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act, or other appropriate statute.

(15) The provisions of this section are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back-up all data files;

(b) Receipt and check registers will be printed at least once monthly and retained as a permanent record. Reconciliation and trial balance will be accomplished at least once monthly, printed and retained as a permanent record;

(c) The escrow agent will maintain a printed, dated source document file to support any changes to existing accounting records;

(d) If the program has the ability to write checks, the check number must be preprinted on the check or retained voucher copy by the supplier (printer). The program may assign suffixes or subaccount codes before or after the check number for identification purposes;

(e) The check number must appear in the magnetic coding which also identifies the account number for readability by the financial institution computer;

(f) All checks written must be included within the computer accounting system.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-128E-010 ADMINISTRATION OF TRUST ACCOUNTS.

WSR 89-07-078

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-02—Filed March 21, 1989—Eff. April 21, 1989]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at the director's office in Olympia, Washington, the annexed rules relating to 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.

This action is taken pursuant to Notice No. WSR 89-05-038 filed with the code reviser on February 15, 1989. These rules shall take effect at a later date, such date being April 21, 1989.

This rule is promulgated pursuant to RCW 51.16.035 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 51.04.020 which directs that the director of the Department of Labor and Industries has authority to implement the provisions of Title 51 RCW, Industrial Insurance Laws of Washington.

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 March 21, 1989.

By Joseph A. Dear
Director

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 89-07-079

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 22, 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 plumber examination, certification, reinstatement, and temporary permit fees, WAC 296-400-045;

that the agency will at 9:00 a.m., Tuesday, April 25, 1989, in the 2nd Floor Conference Room, Building 6, 805 Plum Street S.E., Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 25, 1989.

The authority under which these rules are proposed is RCW 18.106.125.

The specific statute these rules are intended to implement is RCW 18.106.125.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1989.

Dated: March 22, 1989

By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 296-400 WAC, Certification of competency for journeyman plumbers, which includes WAC 296-400-045 Plumber examination, certification, reinstatement and temporary permit fees.

Statutory Authority: RCW 18.106.125.

Specific Statutes that Rules are Intended to Implement: RCW 18.106.125.

Summary of the Rule: Defines a proposed fee increase for journeyman and specialty plumbers. WAC 296-400-045 provides fee schedules for plumber examination, certification, renewal, reinstatement, trainee, and temporary permits.

Reasons Supporting the Proposed Rule: Will provide the necessary funds to insure the solvency of the plumbers dedicated fund.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: James E. Arvan, Chief of Construction Compliance, 805 Plum Street S.E., P.O. Box 9004, Olympia, WA 98504-9689, phone (206) 586-0215.

Name of the Person or Organization, Whether Private, Public, or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, and Fiscal Matters Pertaining to the Rules: This fee increase is necessary to maintain the dedicated fund.

The rules are not necessary to comply with a federal law or state court decision.

Any Other Information that may be of Assistance in Identifying the Rules or Their Purpose: None.

Small Business Impact Statement: Not required since these rules do not impose any fiscal requirements as it is a direct pass through to the purchaser.

AMENDATORY SECTION (Amending Order 87-32, filed 2/29/88)

WAC 296-400-045 PLUMBER EXAMINATION, CERTIFICATION, REINSTATEMENT, AND TEMPORARY PERMIT FEES.

Examination fee:	\$100.00
Trainee certificate fee (1 year):	(\$20.00) <u>\$30.00</u>
Issuance of trainee certificate for less than 1 year:	(\$2.00) <u>\$ 3.00</u> for each month of certificate period with a minimum fee of (\$10.00) <u>\$20.00</u>
The trainee certificate shall expire one year from the date of issuance, and shall be renewed on or before the date of expiration.	
Temporary permit fee:	(\$20.00) <u>\$50.00</u>
Issuance or renewal of journeyman or specialty certificate fee (2 year):	(\$60.00) <u>\$80.00</u>
Issuance of certificate for less than two years:	(\$2.50) <u>\$ 3.50</u> for each month of certificate period with a minimum fee of (\$20.00) <u>\$30.00</u>
Reinstatement of journeyman or specialty certificate:	(\$60.00) <u>\$160.00</u>
Replacement of all certificates:	(\$20.00) <u>\$30.00</u>

Each person who has passed the examination for the plumbers certificate of competency and has paid the certificate fee shall be issued a certificate of competency that will expire on his or her birthdate. If the person was born in an even-numbered year, the certificate shall expire on the person's birthdate in the next even-numbered year. If the person was born in an odd-numbered year, the certificate shall expire on the person's birthdate in the next odd-numbered year.

WSR 89-07-080
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 89-14—Filed March 21, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Bonneville Dam counts indicate that the spring chinook run has not yet arrived in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. This regulation is adopted at the recommendation of the March 21, 1989, Columbia River Compact and there is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 21, 1989.

By Joseph R. Blum
 Director

NEW SECTION

WAC 220-32-05100Q COLUMBIA RIVER GILLNET SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-052, WAC 220-32-058 and WAC 220-32-059, it is unlawful for a person to take or possess salmon, shad and sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish immediately to Noon March 26, 1989.

(2) During the season specified in subsection 1, the sale of sturgeon is prohibited, including set line caught fish, and chinook salmon may be retained only for subsistence purposes.

(3) During the seasons specified in subsection 1, the following areas are closed.

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between approximately 0.8 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River to 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a point one-half mile upstream from the eastern shoreline and a boundary marker located 3/4 of a mile downstream from the western shoreline of the mouth of the Big White Salmon River.

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to three-quarters mile downstream from the western shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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

Reviser's note: The typographical 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100P COLUMBIA RIVER
GILLNET SEASONS ABOVE BONNEVILLE (89-03)

NEW SECTION

WAC 220-32-05700D COLUMBIA RIVER
STURGEON SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may:

(a) Fish for sturgeon using set line gear effective immediately until to noon April 30, 1989, except sturgeon may not be sold from noon March 21 to noon March 26, 1989.

(2) During the season specified in subsection 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(3) During the season specified in subsection 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line.

(b) With hooks less than the minimum size of 9/0.

(c) With treble hooks.

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection 1:

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05700C COLUMBIA RIVER
STURGEON SEASONS ABOVE BONNEVILLE
(88-187)

WSR 89-07-081**PROPOSED RULES****DEPARTMENT OF LICENSING**

[Filed March 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning the regulation of registered counselors:

Amd	WAC 308-190-030	Definitions.
Amd	WAC 308-190-040	Client disclosure information.
New	WAC 308-190-041	Required disclosure information.
New	WAC 308-190-042	Reporting of suspected abuse or neglect of a child, dependent adult, or a developmentally disabled person;

that the agency will at 9:30 a.m., Wednesday, May 10, 1989, in the Exam Center, First Floor, 1300 Quince Street, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on a date following the hearing.

The authority under which these rules are proposed is RCW 18.19.050.

The specific statute these rules are intended to implement is RCW 18.19.060.

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

Dated: March 22, 1989

By: Chris Robert Rose
Administrator

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Title: WAC 308-190-030 Definitions; 308-190-040 Client disclosure information; 308-190-041 Required disclosure information; and 308-190-042 Reporting of suspected abuse or neglect of a child, dependent adult, or a developmentally disabled person.

Description of Purpose: To adopt amended rules relating to definitions of terms used in chapter 18.19 RCW and information disclosure to clients. To adopt a new rule relating to required disclosure information to clients.

Statutory Authority: RCW 18.19.050 and 18.19.060.

Summary of Rules: WAC 308-190-030, to clarify the meaning of terms relating to counselors; WAC 308-190-040, to allow a counselor to select a format for required disclosure information to be provided to each client of the counselor; WAC 308-190-041, to describe disclosure information required to be provided to each

client of a counselor; and WAC 308-190-042, to clearly state the requirement to report suspected abuse or neglect of a child, dependent adult, or a developmentally disabled person.

Responsible Personnel: The following professional programs management staff has knowledge of and responsibility for drafting, implementing, and enforcing these rules: Delores E. Spice, Program Manager, Department of Licensing, P.O. Box 9012, Olympia, WA 98504-8001, phone (206) 753-3576 comm or 234-3576 scan.

Proponents: The Washington State Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the 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 728, filed 5/11/88)

WAC 308-190-030 DEFINITIONS. The following terms are defined ~~((with))~~ within the meaning of this chapter.

(1) "Fee" as referred to in RCW 18.19.030 means compensation paid in exchange for counseling service whether or not the fee is paid on a contractual basis through a government agency or another third party, or is charged by a company, corporation, or any other type of firm, business, or individual ~~((provide))~~ provider.

(2) "Similarly regulated" means individuals who are currently registered, certified, or licensed under other laws of this state wherein disciplinary standards defining acts of unprofessional conduct apply to each individual under the regulation.

(3) "Therapeutic techniques" means the method of procedures used when assisting an individual with emotional, ~~((behavior))~~ behavioral, or mental issues.

(4) "Treatment" ~~((shall))~~ means assisting or attempting to assist an individual and does not include the initial assessment/evaluation.

(5) "Counselor trainee" means any individual who is learning to be a counselor through on-the-job training while providing counseling services.

(6) "Student" means any individual enrolled in a college or university who is taking part in a counseling practicum for course credit.

(7) "Counselor intern" means any individual defined as a student.

AMENDATORY SECTION (Amending Order PM 728, filed 5/11/88)

WAC 308-190-040 CLIENT DISCLOSURE INFORMATION. The term "counselor" as used in the wording of these rules includes all counselors, hypnotherapists, marriage and family therapists, mental health counselors, and social workers, whether registered or certified.

Counselors must provide disclosure information to each client in accordance with chapter 18.19 RCW prior to implementation of a treatment plan. The disclosure information must be specific to the type of counseling service offered; in language that can be easily understood by the client; and contain sufficient detail to enable the client to make an informed decision whether or not to accept treatment from the disclosing counselor.

Firms, agencies, or businesses may supply generic information relative to a counselor's disclosure to the client, in a format which does not duplicate disclosure information provided when more than one counselor is involved in treatment.

~~((+))~~ The disclosure information ~~((may))~~ must be printed ~~((on the firm, agency, business, or counselor's letterhead but must include the following information:~~

- (a) Name of firm, agency, business, or counselor's practice.
- (b) Counselor's business address and telephone number.
- (c) Washington state registration or certification number.

- (d) The counselor's name and type of counseling they provide.
- (e) The methods or techniques the counselor uses.
- (f) The counselor's education, training, and experience.
- (g) Client's cost per each counseling session and the course of treatment where known.

(h) Signatures are required of both the counselor providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

(i) Firms, agencies, or businesses may supply generic information relative to a counselor's disclosure to the client, in a format which does not duplicate disclosure information provided when more than one counselor is involved in treatment.

(2) The following language must appear on every client's disclosure statement:

"Counselors practicing counseling for a fee must be registered or certified with the department of licensing for the protection of the public health and safety. Registration of an individual with the department does not include a recognition of any practice standards, nor necessarily implies the effectiveness of any treatment."

(3) The department of licensing brochure published for counseling or hypnotherapy clients must be presented to the client at the same time as the counselor's disclosure information. The brochure is equally a part of the required client disclosure information. One brochure per client is sufficient for firms, agencies, or businesses utilizing more than one counselor as part of the treatment plan)) in a format selected by the counselor. Whatever format is chosen must include all required disclosure information.

NEW SECTION

WAC 308-190-041 REQUIRED DISCLOSURE INFORMATION. (1) The following information shall be provided to each counseling client:

- (a) Name of firm, agency, business, or counselor's practice.
- (b) Counselor's business address and telephone number.
- (c) Washington state registration or certification number.
- (d) The counselor's name and type of counseling they provide.
- (e) The methods or techniques the counselor uses.
- (f) The counselor's education, training, and experience.
- (g) Client's cost per each counseling session and the course of treatment where known.
- (h) The following language must appear on every client's disclosure statement:

"Counselors practicing counseling for a fee must be registered or certified with the department of licensing for the protection of the public health and safety. Registration of an individual with the department does not include a recognition of any practice standards, nor necessarily implies the effectiveness of any treatment."

(i) Counseling clients are to be informed of the purpose of the counselor credentialing act. The purpose of the law regulating counselors is: (A) To provide protection for public health and safety; and (B) to empower the citizens of the state of Washington by providing a complaint process against those counselors who would commit acts of unprofessional conduct.

(j) Counseling clients are to be informed that they as individuals have the right to choose counselors who best suit their needs and purposes. (This subsection is not intended to provide new rights by superseding those adopted by previous statutes.)

(k) Counseling clients are to be informed of the extent of confidentiality provided by RCW 18.19.180 (1) through (6).

(l) Counseling clients are to be provided a list of or copy of the acts of unprofessional conduct in RCW 18.130.180 with the name, address, and contact telephone within the department of licensing.

(2) Signatures are required of both the counselor providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

(3) The department of licensing publishes a brochure for the education and assistance of the public. The department brochure may be photocopied and provided to each client as an option to satisfy the required disclosure information of subsection (1)(j) through (l) of this section.

NEW SECTION

WAC 308-190-042 REPORTING OF SUSPECTED ABUSE OR NEGLECT OF A CHILD, DEPENDENT ADULT, OR A DEVELOPMENTALLY DISABLED PERSON. All hypnotherapists and counselors, registered or certified, shall report abuse or neglect of a child, dependent adult, or developmentally disabled person when they have reasonable cause to believe that such an incident has occurred.

The report shall be made to the local law enforcement agency or to the department of social and health services at the first opportunity, but no longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

**WSR 89-07-082
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed March 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning the regulation of certified mental health counselors:

- Amd WAC 308-210-010 Definitions.
- Amd WAC 308-210-030 Examinations waiver eligibility.
- Amd WAC 308-210-040 Examination for certified mental health counselors.
- New WAC 308-210-045 Mental health counselors—Professional experience requirement prior to examination for certification.
- New WAC 308-210-046 Applicants with graduate degree by January 26, 1989.
- Amd WAC 308-210-050 Mental health counselor—Education requirement prior to examination for certification.
- Rep WAC 308-210-060 National certification equivalent to Washington state certification;

that the agency will at 10:00 a.m., Wednesday, May 10, 1989, in the Exam Center, First Floor, 1300 Quince Street, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on a date following the hearing.

The authority under which these rules are proposed is RCW 18.19.050.

The specific statute these rules are intended to implement is RCW 18.19.120.

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

Dated: March 22, 1989
By: Chris Robert Rose
Administrator

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Title: WAC 308-210-010 Definitions; 308-210-030 Examination waiver eligibility; 308-210-040 Examination for certified mental health counselors; 308-210-045 Mental health counselors—Professional experience requirement prior to examination for certification; 308-210-046 Applicants with graduate degree by January

26, 1989; 308-210-050 Mental health counselors—Education requirement prior to examination for certification; and 308-210-060 National certification equivalent to Washington state certification.

Description of Purpose: To adopt amendatory rules, new rules, and repeal a rule, all relating to certification of mental health counselors.

Statutory Authority: RCW 18.19.050 and 18.19.120.

Summary of Rules: WAC 308-210-010, to define the meaning of the term "related field" used in the statute; WAC 308-210-030, to clearly identify the requirement for application for certification without examination during the initial certification year as stated in the statute; WAC 308-210-040, to set a deadline for application for state examination and to accept successful completion of either the National Board of Certified Counselors or the National Academy of Certified Clinical Mental Health Counselors examination as meeting the examination requirement of the statute; WAC 308-210-045, to clarify that postgraduate professional experience and supervision requirements must be met prior to examination for certification; WAC 308-210-046, to clearly identify the applicants who may qualify for examination without verification of postgraduate professional experience and supervision; WAC 308-210-050, to clarify language relating to successful completion of graduate hours prior to examination for certification; and WAC 308-210-060, to remove an implication that one national credential is somehow better than another.

Responsible Personnel: The following professional programs management staff has knowledge of and responsibility for drafting, implementing, and enforcing these rules: Delores E. Spice, Program Manager, Department of Licensing, P.O. Box 9012, Olympia, WA 98504-8001, phone (206) 753-3576 comm or 234-3576 scan.

Proponents: The Washington State Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the 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 at that term is defined in RCW 19.85.020.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-010 DEFINITIONS. (1) "Wellness model" is defined as focusing on a client's inherent strengths rather than pathology or restrictions on the clientele to be treated. "Wellness model" is an attitudinal rather than methodological intention.

(2) "Postgraduate supervision" is defined as consisting of a total of one hundred documented hours of individual face-to-face case consultation with an approved supervisor, with no more than six hours per month to be allowed to accrue toward the total.

(3) "Postgraduate professional experience" is defined as consisting of face-to-face counseling service with an individual or with a group of individuals for at least fifty percent of counseling service hours per week for a full-time or part-time employee. The total number of ((supervised)) counseling hours is two thousand or more documented hours accumulated over a minimum of twenty-four months but not more than forty-eight months.

(4) "Counseling practicum" is defined as mental health counseling that is supervised as a part of a course.

(5) "Counseling internship" is defined as supervised mental health counseling performed through counseling field placement.

(6) "Approved supervisor" shall include a certified mental health counselor, licensed psychologist, licensed psychiatrist, or other mental health care provider who meets or exceeds the requirements of certified mental health counselor; provided, the supervisor is not a blood or legal relative or cohabitant of the supervisee.

(7) "Related field" is defined as counseling, psychology, social work, nursing, education, or social sciences.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-030 EXAMINATION WAIVER ELIGIBILITY. In order to apply for certification without examination, an applicant must have submitted a written intent to become certified or have become registered by July 26, 1988. All education, experience, and supervision requirements must have been met by July 26, 1988.

(1) Graduate degree applicants.

(a) Graduate degree applicants must have a master's or doctoral degree in mental health counseling or in psychology, social work, nursing, education, or social sciences which includes the substantial equivalent in subject content to a graduate mental health counseling degree as defined in WAC 308-210-050; and

(b) Postgraduate professional experience and postgraduate supervision.

(2) Alternative training and experience equivalent applicants.

(a) Alternative training and experience equivalent applicants must have a minimum of a bachelor's degree in counseling, psychology, social work, nursing, education, or social sciences from a regionally accredited institution; and

(b) At least five years of documented experience employed in a mental health setting with two thousand hours of supervised face-to-face counseling; or

(c) A combination of supervised and unsupervised face-to-face counseling where two and one-half hours without supervision may be considered as replacement for one hour with supervision.

(3) Persons applying for certification as a mental health counselor during the initial certification period shall meet the requirement for supervised practice or shall be required to pass the certification examination.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-040 EXAMINATION FOR CERTIFIED MENTAL HEALTH COUNSELORS. (1) A written, multiple-choice certification examination on knowledge and application of mental health counseling will be administered at least once a year. Applications must be complete and submitted at least ninety days prior to the examination date.

(2) Applicants who successfully complete and pass the National Board of Certified Counselors (NBCC) certification examination have met the examination requirement of RCW 18.19.120. Verification of successful completion and passage of the NBCC certification examination is to be provided directly to the department of licensing by the NBCC at the request of the applicant for Washington state certified mental health counselor.

(3) Applicants who successfully complete and pass the National Academy of Certified Clinical Mental Health Counselors (NACCMHC) certification examination have met the examination requirement of RCW 18.19.120. Verification of successful completion and passage of the NACCMHC certification examination is to be provided directly to the department of licensing by the NACCMHC at the request of the applicant for Washington state certified mental health counselor.

NEW SECTION

WAC 308-210-045 MENTAL HEALTH COUNSELORS—PROFESSIONAL EXPERIENCE REQUIREMENT PRIOR TO

EXAMINATION FOR CERTIFICATION. (1) To meet the postgraduate professional experience and supervision requirements provided in RCW 18.19.120(1) an applicant with a master's or doctoral degree in mental health counseling or related field from a regionally accredited college or university must have accumulated:

(a) Twenty-four months of postgraduate professional experience as defined in WAC 308-210-010(3); and

(b) Postgraduate supervision as defined in WAC 308-210-010(2).

(2) To meet the postgraduate professional experience and supervision requirements provided in RCW 18.19.120(1) an applicant who has successfully completed at least thirty graduate semester hours or forty-five graduate quarter hours in the field of mental health counseling or the substantial equivalent in subject content as described in WAC 308-210-050(2) must have accumulated:

(a) Twenty-four months of professional experience as described in WAC 308-210-010(3), accumulated after obtaining a bachelor's degree and the required graduate hours; and

(b) Supervision as defined in WAC 308-210-010(2) which has been provided after obtaining a bachelor's degree and the required graduate hours.

NEW SECTION

WAC 308-210-046 APPLICANTS WITH GRADUATE DEGREE BY JANUARY 26, 1989. Applicants who have completed a master's or doctoral degree program in mental health counseling or a related field from a regionally accredited college or university by January 26, 1989, may qualify for examination without the postgraduate professional experience or postgraduate supervision required by WAC 308-210-045.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-050 MENTAL HEALTH COUNSELORS—EDUCATION REQUIREMENT PRIOR TO EXAMINATION FOR CERTIFICATION. (1) To meet the education requirement imposed by RCW 18.19.120, an applicant must possess:

(a) A master's or doctoral degree in mental health counseling or related field from a regionally accredited college or university; or

(b) ~~((A bachelor's degree and successful completion of))~~ Have successfully completed at least thirty graduate semester hours or forty-five graduate quarter hours in the field of mental health counseling or the substantial equivalent in subject content.

(2) Subject content includes a core of study relating to counseling theories, counseling philosophy, counseling practicum, counseling internship, and should incorporate content in professional ethics and law and shall include at least five content areas (a) through (h) of this subsection and at least two additional content areas from the entire list:

- (a) Assessment/diagnosis.
- (b) Career development counseling.
- (c) Counseling individuals.
- (d) Counseling groups.
- (e) Counseling couples and families.
- (f) Developmental psychology (may be child, adolescent, adult or life span).
- (g) Abnormal psychology/psychopathology.
- (h) Research and evaluation.
- (i) Multicultural concerns.
- (j) Substance/chemical abuse.
- (k) Physiological psychology.
- (l) Organizational psychology.
- (m) Mental health consultation.
- (n) Developmentally disabled persons.
- (o) Abusive relationships.
- (p) Chronically mentally ill.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-210-060 NATIONAL CERTIFICATION EQUIVALENT TO WASHINGTON STATE CERTIFICATION.

WSR 89-07-083
PROPOSED RULES
DEPARTMENT OF CORRECTIONS
 [Filed March 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Corrections intends to adopt, amend, or repeal rules concerning community residential programs, work training release, amending chapter 137-56 WAC, dealing with new procedures and disciplinary hearings.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 3, 1989.

The authority under which these rules are proposed is RCW 72.65.100.

The specific statute these rules are intended to implement is chapter 72.65 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-02-058 filed with the code reviser's office on January 4, 1989.

Dated: March 22, 1989

By: Chase Riveland
 Secretary

STATEMENT OF PURPOSE

Title and Number of Rule: Amending chapter 137-56 WAC, Community residential programs, work training release.

Statutory Authority: RCW 72.65.100.

Summary and Purpose: To update and standardize the work release programs consistent with constitutional due process and department policies.

Agency Personnel Responsible for Drafting and Adopting: Gary L. Banning, Administrator, Office of Contracts and Regulations, Division of Management and Budget, mailstop FN-61, scan 234-5770; Implementation and Enforcement: Nancy Campbell, Director, Community Corrections, Department of Corrections, mailstop FN-61, scan 234-4616.

No other person or organization other than the Department of Corrections is proposing this rule.

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

This rule does not have an impact on small business.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-010 DEFINITIONS. (1) "Secretary" is the secretary of the department of corrections or his/her designee.

(2) "Director" is the director, division of community ~~((services))~~ corrections, department of corrections or designee.

(3) "Assistant director" ~~((is the))~~ an assistant director, division of community ~~((services))~~ corrections, department of corrections or designee.

(4) ~~((Community corrections regional administrator))~~ is the staff member assigned by the assistant director to administer and supervise the work/training release programs in a specific geographic area.

~~((7))~~ "Department" is the department of corrections.

~~((6))~~ (5) "Work/training release facility supervisor" is a staff member assigned by the ~~((community corrections regional administrator))~~ assistant director to administer and supervise a specific work/training release facility and includes his/her designee.

~~((7))~~ (6) "Work/training release ~~((counselor))~~ community corrections officer" is a staff member assigned by the work/training release facility supervisor to supervise and counsel ~~((a caseload of))~~ work/training release ~~((inmates or))~~ residents at a specific work/training release facility.

~~((8))~~ (7) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide housing and supervision for work/training release ~~((inmates or))~~ residents.

~~((9))~~ "Work/training release coordinator" is a staff member assigned by the superintendent of an adult correctional institution to act as liaison between the institution and work/training release facility personnel.

~~((10))~~ (8) "Work/training release ~~((inmate or))~~ resident" is ~~((an inmate of a major adult correctional institution who has been approved for placement))~~ any offender committed to or transferred to the department's custody pursuant to a valid criminal conviction who has been approved by the department for placement in a designated work/training release facility ~~((under a work/training release plan, or an offender recommended for placement by the courts or the board of prison terms and paroles in a work/training release facility)).~~

~~((11))~~ (9) "Sponsor-escort" is a responsible citizen assigned to escort and supervise ~~((an inmate or))~~ a work release resident during official and social activities outside of the work/training release facility.

~~((12))~~ (10) "Work/training release facility" is an ~~((institution or other))~~ establishment approved by the department for housing and ~~((supervision))~~ monitoring of work/training release ~~((inmates or))~~ residents during the ~~((inmate's or))~~ resident's stay in a work/training release program.

~~((13))~~ "One working day" is a nine-hour day, 8:00 a.m. to 5:00 p.m. excluding weekends and holidays. (11) "Disciplinary hearing officer" is an individual who is knowledgeable in the department's administrative regulation and who is responsible for disciplinary hearings. This person shall be appointed by the work/training release facility supervisor.

AMENDATORY SECTION (Amending Order 86-04, filed 3/3/86)

WAC 137-56-015 DISPOSITION OF EARNINGS. Payment ~~((of))~~ as determined by the department for board and room charges will be deducted from the work/training release ~~((inmates or))~~ residents' earnings. For purposes of this section, earnings shall constitute all income and money received or possessed by the work/training release ~~((inmate or))~~ resident while under a work release plan. Nothing in this section shall prohibit the department's authority to obtain reimbursement for moneys advanced to a work/training release ~~((inmate or))~~ resident by the department.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-030 REASONS FOR WHICH GIVEN. Work/training release may be authorized for one or more of the following:

- (1) To take full-time or part-time employment;
- (2) To take vocational training, including attendance at an accredited college.
- (3) To make application to or be interviewed by prospective employers or to enroll in an academic or vocational training program (known as temporary work/training release).
- (4) To provide transitional services to offenders.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-040 APPLICATION—WHO MAY APPLY. (1) An inmate may apply for work/training release provided that:

- (a) He or she ~~((has))~~ is eligible for minimum security status;
- (b) His or her minimum term has been fixed by the indeterminate sentence review board ~~((of prison terms and paroles));~~
- (c) He or she ~~((has less than two years))~~ is under an indeterminate sentence and has less than twelve months to serve on the minimum term including anticipated good time credits;
- (d) Offenders sentenced under chapter 9.94A RCW may be placed on work/training release the last one hundred eighty days of their confinement and/or for an additional ninety days in prerelease.

(2) Persons convicted of rape in the first degree shall not be eligible for work/training release at any time during the first three years of confinement.

(3) Persons convicted of murder first degree are not eligible for work/training release, without the written approval of the secretary.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-050 APPLICATION—CONSIDERATION. (1) The inmate shall submit his or her application for work/training release to his or her counselor ~~((on forms prescribed by the department)).~~

(2) The classification committee shall make its recommendations to the superintendent, giving written documentation of the information which the committee relied on and giving reasons for the recommendation.

(3) Work/training release applications shall be evaluated without regard for color, national origin, or creed.

(4) Probationers/parolees/offenders sentenced under chapter 9.94A RCW may be referred by the superior court or indeterminate sentence review board ~~((of prison terms and paroles)).~~

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-060 APPLICATION—DECISION. (1) If the superintendent approves the work/training application, he or she shall forward copies of the application and plan ~~((to the work/training release facility to which the inmate requests transfer, and to the assistant director, community resident programs))~~ per department procedure.

(2) If the superintendent disapproves the work/training release application, he or she shall return the application to the counselor, stating his or her reasons for denial and set a date when the inmate may reapply.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-070 PLAN—INVESTIGATION. (1) Upon receipt of an approved work/training ~~((release))~~ application ~~((and plan from the superintendent)),~~ the work/training release facility supervisor or his or her designee shall ~~((complete an investigation))~~ investigate the plan.

(2) The work/training release investigation will ~~((verify the plan as it pertains to employment, financial resources, training, community re-creation;))~~ be based on established criteria and any ~~((other))~~ additional factors which may affect the ~~((inmate's or))~~ resident's ability to successfully complete a work/training release program.

(3) The ~~((work/training release plan))~~ investigation will be forwarded by the work/training release facility supervisor to the ~~((assistant director, community residential programs, or his or her designee, with a recommendation for or against approval of the plan))~~ referral source indicating the action taken.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-080 PLAN—APPROVAL OR DENIAL. (1) The assistant director ~~((community residential programs, or his or her designee))~~ has the authority to approve or disapprove a plan.

(2) Upon approval of a plan, the ~~((on-site representative, classification unit in headquarters, shall issue a transfer order))~~ work/training release facility supervisor shall direct that a transfer order be issued.

(3) If approved, the ~~((inmate or))~~ resident shall sign and agree ~~((under oath;))~~ to the standard rules of work/training release. (See WAC 137-56-100.)

(4) If the plan is disapproved, the ~~((assistant director, community residential programs, or his or her designee shall state the reasons for denial in writing with a copy to the superintendent and inmate and will set a date when the inmate can reapply))~~ superintendent and resident will receive a written reason for the denial.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-090 PLAN—RESTRICTIONS. (1) ~~((An inmate or))~~ A resident will not be permitted to travel outside the state.

(2) The work or training site shall be within reasonable commuting distance (in most circumstances not more than fifty miles) of the work/training release facility ~~((or institution))~~ in which the ~~((inmate or))~~ resident is confined.

(3) If the ~~((inmate or))~~ resident has been placed in a work/training release facility for the purpose of developing a plan ~~((temporary work/training release))~~ and the plan is not secured within ~~((ten working days from the date of issuance of transfer orders, the inmate or))~~ a reasonable period of time as determined by the department, the resident may be returned to the institution or referred back to the court or board without prejudice.

(4) ~~((The))~~ A purpose of work/training release is to provide a short adjustment period ~~((in a work/training release facility))~~ prior to ~~((parole))~~ release or an alternative to total confinement. Before a work/training release plan is approved, the staff will have a reasonable expectation that the ~~((inmate or))~~ resident will be ~~((paroled))~~ released in a period of time which will normally not exceed six months. If a ~~((parole))~~ release date is not fixed within six months of placement ~~((in a work/training release plan)),~~ the assistant director ~~((community resident programs, or his or her designee))~~ will review the case on an individual basis and may return the ~~((inmate or))~~ resident to the institution or refer the case back to the court or board if it appears that the ~~((inmate or))~~ resident will be on work/training release for an extended period of time.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-095 NOTIFICATION. (1) Each work/training release ~~((inmate or))~~ resident shall be advised in writing of:

- (a) His/her rights and responsibilities;
- (b) Acts prohibited in the work release facility; ~~((and))~~
- (c) Disciplinary action which may be taken in the event of a serious infraction or violation of local rules; and
- (d) The rules in this chapter and of all local rules of the work/training release facility to which he/she is assigned.

(2) ~~((Each inmate upon entering the work release facility shall be given a copy of the rules in this chapter and of all local rules of the work/training release facility to which he/she is assigned.~~

~~((3))~~ All amendments or additions to this chapter and all amendments or additions to local disciplinary rules, policies, and procedures shall be posted at a specifically designated place or places in each work/training release facility in advance of their effective date if possible and for at least thirty days after their effective date. Work/training release ~~((inmates or))~~ residents shall be responsible for informing themselves of such postings. Complete and up-to-date copies of these rules and all local rules shall be available at each work/training release facility for ~~((inmate))~~ examination.

~~((4))~~ (3) The work/training release facility supervisor or their designee shall ensure that each work/training release ~~((inmate or))~~ resident has the opportunity to understand rules which relate to his/her conduct. If the ~~((inmate))~~ resident is unable to read or understand English, the rules shall be read to ~~((him/her))~~ them promptly in ~~((his/her))~~ their accustomed language.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-100 STANDARD RULES. In consideration of being granted work/training release, the ~~((inmate or))~~ resident must agree to observe and abide by the following rules:

(1) Continue in the approved work or training release plan until it is officially changed. Any modification of the plan must be authorized in writing by the work/training release facility supervisor or their designee.

(2) Comply with local work/training release facility rules, and any special restrictions imposed in writing by the work/training release facility supervisor. The ~~((inmate or))~~ resident may appeal in writing to the ~~((community corrections regional administrator;))~~ assistant director if the ~~((inmate or))~~ resident considers any of the restrictions to be unwarranted or arbitrary.

(3) Comply with such other restrictions and/or conditions as may be imposed in the original work/training release plan by the ~~((community corrections regional administrator))~~ facility supervisor or his or her designee.

(4) Remain confined to the work/training release facility premises at all times other than the time necessary to implement the plan or when authorized under WAC 137-56-140. Any work/training release ~~((inmate or))~~ resident approved for placement under a work/training release plan who willfully fails to report to his or her designated assignment or return to the designated place of confinement at the time specified ~~((shall))~~ may be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

(5) Have employment or other resources in order to maintain himself or herself financially.

(6) Not consume, ingest, inject, or possess nonprescription narcotic or "dangerous" drugs or controlled substances or alcoholic beverages.

(7) Agree to disburse all earnings in accordance with the approved work/training release plan and report all income to the work/training facility supervisor or their designee. All income from any source shall

be immediately placed in the ~~((resident's trust fund account)) inmate banking system by the facility supervisor or their designee. A receipt will be issued ((by the facility supervisor)).~~

(8) Comply with all federal, state, and local laws and regulations.

(9) ~~((Inmate or)) Residents placed on work/training release are ordinarily approved with the understanding that they will be ((paroled)) released in a reasonable time, normally within six months. If it is not possible to ((parole)) release the ((inmate or)) resident within a reasonable period of time, ((he or she)) they may be returned to the institution or referred back to the court or board.~~

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-110 **SERIOUS INFRACTIONS.** Any of the following acts or omissions of the work/training release ~~((inmate or))~~ resident described and codified in the form below shall constitute a serious infraction. Disciplinary action may be taken against the work/training release ~~((inmate or))~~ resident in accordance with this chapter in the event of ~~((a))~~ serious infraction.

Infraction Code	Act/Omission
800	Creating a risk to the orderly operation of the facility or the health and safety of its residents, staff, or visitors.
801	Assaulting any person which results in the hospitalization of the person assaulted.
802	Assaulting any person.
803	Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
804	Engaging in sexual acts with others within the facility.
805	Fighting with any person, provided, however, that self-defense may be a defense to a serious infraction for fighting.
806	Threatening another with bodily harm or with any offense against his/her person.
810	((Intentionally)) Failing to seek or maintain employment or training or to maintain oneself financially.
811	Entering into an unauthorized contract.
812	Failing to report or turn in all earnings or income.
813	Modifying a work release plan by the releasee without authorization.
814	Violating a special condition of work release plan.
815	Failing to comply with all federal, state, and local laws, or court orders.
816	Tampering with or blocking any locking device.
817	Possessing or introducing into the facility an explosive or any ammunition or components of explosives or ammunitions.
818	Possessing or introducing into the facility any unauthorized tool.
819	Possessing or introducing into the facility any gun, firearm, weapon, sharpened instrument, knife, or components thereof.
821	Holding a person hostage or restraining a person against his/her will.
825	Violating conditions of furlough.
830	Escaping/absconding from the facility with voluntary return within twenty-four hours.
831	Failing to return to the facility from an authorized sign out.
832	Escaping/absconding from the facility.
833	Using physical force in the act of escape.
834	Escaping/absconding ((from)) or willful failure to return to the facility and apprehension out-of-state.
843	Possessing, introducing, or using alcohol.
844	Possessing, introducing, or using marijuana or related paraphernalia.
845	Possessing, introducing, transferring, or using any narcotics, controlled substance, or related paraphernalia unless authorized by the supervisor pursuant to a valid prescription or order issued in the course of professional treatment by a licensed medical practitioner.
846	Refusing to submit to a urinalysis, breathalyzer, or other standard sobriety test.
851	Lying to a hearing committee.

Infraction Code	Act/Omission
852	Lying to a staff member which causes an innocent person to be penalized, disciplined, or proceeded against.
853	((Intentionally or recklessly)) Setting a fire.
854	((Intentionally or recklessly)) Destroying or damaging state property, or the property of another person.
855	Stealing (theft) or knowingly possessing stolen property.
856	Refusing to submit to a body search when lawfully ordered to do so by staff.
857	Refusing and/or failing to work or attend regularly scheduled assignments.
858	((Intentionally)) Interfering with a staff member in the performance of his/her duties.
859	Gambling.
860	Possessing money or other negotiable instruments ((of five dollars or more)) without prior authorization.
861	Performing or participating in a marriage ceremony in the facility or on the facility grounds, except when such marriage was approved by the supervisor.
870	Rioting.
871	Inciting others to riot.
872	Engaging in or inciting prohibited group demonstration.
873	((Intentionally)) Interfering with the taking of count.
874	Counterfeiting, forging, falsification, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
875	Making intoxicants, narcotics, or other controlled substances.
876	Giving or offering any official staff member or volunteer a bribe or anything of value for a favor or unauthorized service.
877	Committing four or more general infractions within a six-month period all of which arise out of separate incidents and have been reported in writing.
878	((Intentionally)) Failing to comply with an administrative or post-hearing sanction.
879	Operating a motor vehicle without permission.
880	Falsifying the sign-in/sign-out log.
881	Refusing to provide specific information regarding proposed residence consistent with court-imposed community placement conditions.
900	Attempting to commit or aiding another person to commit a serious infraction as enumerated in this section. Such action shall be considered the same as commission of the offense itself.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-120 **PROVISIONS OF SUPERVISION.** In meeting its responsibilities for the care of ~~((inmates or))~~ residents, a work/training release facility shall provide:

- (1) ~~((A))~~ Staff on twenty-four hour duty as specified by the department and an office within the facility so that the staff can monitor the activities of the ~~((inmates or))~~ residents;
- (2) A check-in and check-out system to insure that the whereabouts of the ~~((inmate or))~~ resident is known at all times, including checks on the ~~((inmate or))~~ resident at school and work, furlough, sponsored outing and other approved locations in the community;
- (3) Bed checks or head counts to account for the ~~((inmate's or))~~ resident's whereabouts; a minimum of three bed checks shall be required between 12:00 midnight and 8:00 a.m.;
- (4) Provide adequately for the ~~((inmate or))~~ resident with respect to sleeping quarters, bathroom facilities, and accommodations for cooking, dining, lounging and leisure time activities;
- (5) Comply with state and local fire codes.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-140 **LIMITS OF CONFINEMENT.** A work/training release ~~((inmate or))~~ resident shall be confined to the facility at all times except:

- (1) When interviewing prospective employers or arranging for registration at a training facility;
- (2) When working at paid employment or attending a training facility in a vocational or academic program;

(3) If enrolled in an on-campus training program and housed in an on-campus facility, when participating in customary and official on-campus activities or mandatory field trips;

(4) When authorized, a point-to-point pass not to exceed two hours, excluding travel, for the purpose of transacting personal (~~essential~~) business including a physical exercise program, approved religious activities and/or a treatment regimen, between the hours of 8:00 a.m. and 10:00 p.m. and/or outside that time frame with written permission of the facility supervisor;

(5) When authorized to participate in social and recreational activities in company with a sponsor-escort between 8:00 a.m. and 12:00 midnight;

(6) When on furlough;

(7) When on authorized medical appointments or court appearances;

(8) When ordered to perform community service.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-150 SPONSOR-ESCORT. (1) A sponsor-escort shall be a responsible citizen who shall accompany and retain custody of a work/training release (~~inmate-or~~) resident during a social (~~or recreational~~) activity at all times. The sponsor-escort must be approved by the work/training release facility supervisor; and the sponsor and (~~the inmate-or~~) resident must sign an agreement with the department which describes (~~his or her~~) their responsibilities.

(2) Persons who are (~~on active felony probation or parole~~) under the jurisdiction of the department or pending felony charges shall not be approved as sponsor-escorts. Persons who have a past felony conviction and who have earned a discharge may be approved as sponsor-escorts on an individual basis by the assistant director (~~community resident programs, or his or her designee~~).

(3) Sponsor-escorts must complete a sponsor orientation class provided by the work/training release facility before eligibility under this section.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-160 TERMINATION OF PLAN. ((+)) At any time after approval has been granted to any work/training release (~~inmate-or~~) resident (~~to participate~~) for participation in the work release program, such approval may be revoked, and ((if) the work/training release ((inmate-or) resident ((has been released on a work release plan, he/she) may be returned to ((a state correctional) the institution or referred back to the court or board, or the plan may be modified, in the sole discretion of the secretary(:

(2) Without limiting the authority of the secretary under subsection (1) of this section, a work/training release plan may be terminated or disciplinary action taken by the facility review committee pursuant to this chapter) for the following reasons:

((+)) (1) If requested in writing by the work/training release (~~inmate-or~~) resident;

((+)) (2) If the work/training release facility refuses to accept or continue to serve the work/training release (~~inmate-or~~) resident in accordance with its contract with the department;

((+)) (3) If the plan is discontinued (~~or modified so that it no longer meets agency standards~~) or if the work/training release (~~inmate-or~~) resident becomes unable to comply with the terms of the plan;

((+)) (4) If the work/training release (~~inmate-or~~) resident lacks aptitude for the assignment or is improperly placed; or

((+)) (5) If the work/training release (~~inmate-or~~) resident has been unable to adjust or adapt to the conditions of the work/training release facility; or

((+)) (6) If the work/training release (~~inmate-or~~) resident has demonstrated through (~~his or her~~) their behavior ((an) unwillingness to respond to counseling by staff;

((+)) (7) If the work/training release (~~inmate's-or~~) resident's situation and circumstances have significantly changed; or

((+)) (8) If the work/training release (~~inmate-or~~) resident has failed to comply with federal or state laws or local ordinances; or

((+)) (9) If the work/training release (~~inmate-or~~) resident has failed to comply with standard work/training release rules as enumerated in WAC 137-56-100; or

((+)) (10) If the work/training release (~~inmate-or~~) resident has failed to comply with such other written facility rules as are promulgated by the facility supervisor; or

((+)) (11) If the work/training release (~~inmate-or~~) resident has failed to comply with such other specific restrictions or behavior expectations which have previously been called to the attention of the work/training release (~~inmate-or~~) resident by the work/training release facility supervisor or designee and are documented in writing; or

((+)) (12) If the work/training release (~~inmate-or~~) resident has committed a serious infraction as enumerated in WAC 137-56-110.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-170 SERVICE OF NOTICE OF PROPOSED DISCIPLINARY ACTION. (1) If disciplinary action is proposed, the work/training release facility supervisor or designee may suspend the work/training release plan and place the (~~inmate-or~~) resident in custody pending a disciplinary hearing.

(2) The work/training release facility supervisor or designee shall advise the (~~inmate-or~~) resident in writing of the factual allegations which provide the basis for the proposed disciplinary action within one working day after the suspension of the work/training release plan.

(3) The factual allegations may be amended and/or new allegations added at any time prior to the disciplinary hearing, provided ((that) the work/training (~~inmate-or~~) resident shall have notice of such new and/or amended allegations at least twenty-four hours prior to the disciplinary hearing.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-180 DISCIPLINARY HEARING. (1) A work/training (~~inmate-or~~) release resident served with allegations providing the basis for a proposed disciplinary action shall be notified in writing that a hearing has been set before a (~~review committee~~) disciplinary hearing officer. An allegation involving the commission by the (~~inmate-or~~) resident of a serious infraction may be amended at any time by the department, provided that twenty-four hours notice be given to the (~~inmate~~) resident to respond to the (~~new~~) allegations. The hearing will be set within five working days of the suspension of the work/training release plan, unless a longer time is approved by the assistant director (~~community residential programs, or his or her designee~~). The written notice of hearing shall be given to the (~~inmate-or~~) resident at least twenty-four hours before the hearing (~~and advise~~). The (~~inmate-or~~) resident (~~of his or her~~) will be advised of their rights, including the following:

(a) The (~~inmate-or~~) resident shall be present at all stages of the hearing, except during deliberation in appropriate circumstances.

(b) The (~~inmate-or~~) resident shall present (~~his or her~~) their own case to the ((review committee) disciplinary hearing officer. If there is a ((language-or) communication(s) barrier, the ((review committee chairman) disciplinary hearing officer shall appoint an ((advisor) interpreter.

(c) The (~~inmate-or~~) resident may have an attorney present at their expense only when a felony has been alleged. Such representation is limited to advising the (~~inmate-or~~) resident of ((his-or-her) their rights to remain silent, and does not include the right to act as an advocate throughout the hearing.

(d) The (~~inmate-or~~) resident may testify during the hearing or remain silent, and ((his-or-her) their silence will not be held against ((him-or-her) them.

(e) The work/training release (~~inmate-or~~) resident may, in preparation for the hearing, ask the ((review committee) disciplinary hearing officer that certain department or contract staff members, other work/training release (~~inmates-or~~) residents(;) and other persons be present as witnesses at the hearing. Such requests must be made twenty-four hours in advance of the hearing. The ((review committee) disciplinary hearing officer shall grant such request if it is determined by the ((review committee) disciplinary hearing officer that to do so would not be unduly hazardous to the work/training release facility's safety or correctional goals: PROVIDED, HOWEVER, Limitations may be made by the ((review committee) disciplinary hearing officer if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnecessary to the adequate presentation of the work/training release (~~inmate-or~~) resident's case.

(2) Attendance at the hearing shall be limited to parties directly concerned. The ((review committee chairman) disciplinary hearing officer may exclude unauthorized persons.

(3) The ((review committee) disciplinary hearing officer shall make an evaluation of the (~~inmate's-or~~) resident's ((progress, attitudes, need for program modifications, work/training alternatives, or institution programming;)) adjustment, and shall make a recommendation to

the ~~((board of prison terms and paroles))~~ indeterminate sentence review board or court regarding good time credits and readiness for parole/release.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-190 ~~((FACILITY REVIEW COMMITTEE))~~ **DISCIPLINARY HEARING OFFICER.** (1) The ~~((review committee))~~ shall consist of at least three members, including the work/training release facility supervisor or his or her designee and a member of the contractor's staff, if the facility is under contract with the department) disciplinary hearing shall be conducted by one hearing officer appointed by the facility supervisor who is knowledgeable of the department's administrative regulations pertaining to disciplinary hearings and the hearing process. ~~((The additional members shall be selected by the facility supervisor from either state staff, including community corrections officers or the contractor's staff.))~~ No resident ~~((or inmate))~~ may be ~~((a member of this committee))~~ appointed as a disciplinary hearing officer. The ~~((facility supervisor shall serve as chairman and))~~ disciplinary hearing officer shall have the authority to make the final decision. The ~~((facility supervisor or his or her designee))~~ disciplinary hearing officer shall inform the ((inmate) resident, in writing, of ((the review committee's)) his/her decision within three working days.

(2) ~~((At institutions, the classification committee may serve as the facility review committee for work/training release inmates or residents housed at the facility, except that the institution work/training release coordinator will be a member of the committee.~~

(3) ~~((No person directly involved in the incident, making an allegation ((involved in the incident)), or who may be called as a witness(;) shall be ((a member of the review committee)) appointed as a hearing officer. Persons called as witnesses must be approved by the ((review committee chairman)) hearing officer and must have information or facts which are relative to the allegation(s) ((being considered)) under consideration. In the event ((that an individual)) the appointed hearing officer is disqualified or disqualifies ((himself or herself under this rule) themselves, or for any other reason((; a replacement may be designated by the facility supervisor, community corrections regional administrator, or assistant director)) they are unable to render a fair judgment, a replacement must be appointed by the facility supervisor.~~

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-200 **DISCIPLINARY HEARING—WAIVER.** (1) At any time after having been served with an allegation providing the basis for a proposed disciplinary action, the ~~((inmate or))~~ resident may choose to waive ~~((his or her))~~ their right to a hearing by signing an admission of the allegation and request that the hearing be dispensed with entirely or limited only to questions of disposition.

(2) The ~~((inmate or))~~ resident may admit in writing to ~~((part))~~ one or more of the allegations and thereby limit the scope of the hearing.

(3) In those cases where the allegation involves misbehavior or other culpability on the part of the ~~((inmate or))~~ resident, ~~((he or she))~~ they shall be advised in writing that in admitting the violation and waiving the hearing, a report ~~((with))~~ shall be submitted ~~((to the board of prison terms and paroles which may result in the loss of))~~ which may result in the loss of work/training release status, good time credits, and/or the extension of the minimum term.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-210 **DISCIPLINARY HEARING—RULES OF EVIDENCE.** (1) All relevant and material evidence is admissible which, in the ~~((majority))~~ opinion of the ~~((review committee))~~ disciplinary hearing officer, is the best evidence reasonably obtainable having due regard for its necessity, availability, and trustworthiness.

(2) All evidence material to the issues raised in the hearing shall be offered into evidence. All evidence forming the basis for the department's decision in a matter shall be offered into evidence.

(3) The work/training release ~~((inmate or))~~ resident shall be allowed to call witnesses approved by the ~~((review committee))~~ disciplinary hearing officer pursuant to WAC 137-56-180 (1)(e) and to present documentary evidence in his/her defense at the hearing when permitting the work/training release ~~((inmate or))~~ resident to do so will not be unduly hazardous to the work/training release facility's safety or correctional goals unless the testimony to be presented by the witness and/or the information desired to be presented is deemed by the ~~((review committee))~~ disciplinary hearing officer to be irrelevant,

immaterial, unnecessarily duplicative of other information and/or testimony ~~((before the review committee)),~~ or otherwise found to be unnecessary to the adequate presentation of the work/training release ~~((inmate or))~~ resident's case. The testimony of all witnesses from outside the work/training release facility ~~((staff))~~ may be considered in writing. In the event the ~~((review committee))~~ disciplinary hearing officer determines that the presence of a witness is appropriate, the ~~((review committee should))~~ disciplinary hearing officer shall call the witness, or in ((its) his/her discretion, may continue the hearing if the witness is unavailable, but will become available within a reasonable period of time: PROVIDED, HOWEVER, That if the witness is unavailable, the ((review committee)) disciplinary hearing officer may, in ((its) his/her discretion, consider the written testimony previously submitted.

(4) The work/training release ~~((inmate or))~~ resident may question witnesses against him/her at the discretion of the ~~((review committee))~~ disciplinary hearing officer. If the ~~((review committee))~~ disciplinary hearing officer determines that a work/training release ~~((inmate or))~~ resident witness would be subject to risk or harm if his/her identity were disclosed, testimony of the said witness may be introduced by the testimony of a department or contract staff member to whom the information was provided by and/or the affidavit of the witness. If the department or contract staff member to whom the work/training release ~~((inmate or))~~ resident witness provided information is, for good cause, unavailable, the written statement of the department or contract staff member may be used. The ~~((review committee))~~ disciplinary hearing officer shall, out of the presence of all work/training release ~~((inmates or))~~ residents, inquire as to the identity of any anonymous work/training release ~~((inmate or))~~ resident, and as to how the testifying department or contract staff member received such information. The refusal of the department or contract staff member presenting the testimony of the unidentified work/training release ~~((inmate or))~~ resident witness to identify the witness shall make the testimony inadmissible unless the refusal to identify the witness is approved by the ~~((community corrections regional administrator))~~ assistant director based on his/her determination of good cause for nondisclosure and that the informant is reliable. The ~~((review committee))~~ disciplinary hearing officer must make an independent determination as to the reliability of the informant and the credibility of the information offered, except that the ~~((review committee))~~ disciplinary hearing officer may accept an assurance of credibility from the ~~((community corrections regional administrator))~~ assistant director who approves the nondisclosure of the identity of the work/training release ~~((inmate or))~~ resident. The ~~((inmate))~~ resident should be advised on the record, or subsequently provided with, a statement of good cause as to why the ~~((inmate))~~ resident was not allowed to call a witness or why the identity of ~~((an inmate))~~ a resident witness was not disclosed.

(5) Documentary evidence, including written statements submitted by interested parties on behalf of the ~~((inmate or))~~ resident, may be received. Such evidence may include copies of documents, excerpts from documents and incorporation of written material by reference, including depositions.

(6) The ~~((chairman of the review committee))~~ disciplinary hearing officer may exclude relevant evidence if the probative value is outweighed by the danger of unfair prejudice, confusion of the issues, misleading the committee or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(7) The ~~((review committee))~~ disciplinary hearing officer should determine if the ~~((inmate))~~ resident is competent to understand the charges and proceedings or needs an interpreter to participate therein. If the ~~((inmate))~~ resident is not competent or needs an interpreter, the ~~((review committee))~~ disciplinary hearing officer should postpone the hearing to secure a report on the competency of the inmate, provide an interpreter, or take such other action as will assure the fairness and orderliness of the hearings.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-220 **DISCIPLINARY HEARING—FINDINGS AND CONCLUSIONS.** (1) At the conclusion of the hearing, the ~~((review committee))~~ disciplinary hearing officer will make a finding of fact within one working day as to whether or not the allegations made against the ~~((inmate or))~~ resident have been proven by a preponderance of the evidence presented at the hearing.

(2) If the ~~((review committee))~~ disciplinary hearing officer determines that the allegations have not been proven by a preponderance of the evidence presented at the hearing, the ~~((inmate or))~~ resident shall be restored/continued to work/training release status.

(3) The hearing officer is authorized to find a resident guilty of a lesser included offense. Where the evidence suggests a resident is guilty of an offense not charged and which is not a lesser included offense to a charged offense, the hearing officer may recommend that new charges be filed to address such offenses. The resident may waive the right to a new proceeding and allow the hearing officer to enter a finding of guilty or not guilty and sanction on the offense.

(4) If the ~~((review committee))~~ disciplinary hearing officer determines that one or more of the allegations have been proven by a preponderance of the evidence presented at the hearing, the ~~((review committee))~~ disciplinary hearing officer will proceed to a disposition.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-230 DISCIPLINARY HEARING—DISPOSITION. (1) The ~~((review committee))~~ disciplinary hearing officer will consider the ~~((inmate's or))~~ resident's total background, adjustment on work/training release, attitude, recommendations of interested parties, and any other information relative to the ~~((inmate's or))~~ resident's ability to continue in the program. The ~~((review committee))~~ disciplinary hearing officer shall make a determination as to whether or not the ~~((inmate or))~~ resident ~~((has))~~ earned good time credits towards parole/release, and whether the matter should be referred to the indefinite sentence review board ~~((of prison terms and paroles or the court))~~ for possible increase in the ~~((inmate's or))~~ resident's minimum term or to the court for other appropriate action.

(2) The ~~((inmate or))~~ resident shall be present at all stages of the hearing, except for deliberation and even during deliberation when appropriate, and shall have the opportunity to make argument ~~((in))~~ on his or her own behalf.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-240 DISCIPLINARY HEARING—DECISION. (1) The ~~((review committee))~~ disciplinary hearing officer may:

(a) Restore the work/training release ~~((inmate or))~~ resident to his or her work/training release status under the same or modified conditions as the original plan; or

(b) Restrict the ~~((inmate or))~~ resident to the work/training release facility for up to thirty days; or

(c) Require restitution be made by the work/training release ~~((inmate or))~~ resident; or

(d) Require extra duty to be performed by the ~~((inmate or))~~ resident; or

(e) Revoke approval of an approved sponsor; or

(f) Deny good conduct time per department presumptive sanction policy; or

(g) Require additional time in ~~((Phase H))~~ prerelease; or

(h) ~~((Revoke))~~ Terminate the work/training release plan and return the work/training release ~~((inmate or))~~ resident to ~~((an institution or Phase H))~~ a prerelease facility or an institution; or

(i) ~~((Return))~~ Refer the ((offender)) resident to the court or the indefinite sentence review board ~~((of prison terms and paroles))~~ for final disposition.

(2) Nothing in this section shall preclude subsequent reclassification of the work/training release ~~((inmate or))~~ resident or placement into administrative segregation.

(3) The ~~((facility supervisor))~~ disciplinary hearing officer shall notify the ~~((inmate or))~~ resident orally within one working day and confirm the decision in writing within three working days. The written decision shall specify the evidence upon which the ~~((review committee))~~ disciplinary hearing officer relied and shall include a description of the circumstances surrounding the allegation(s) upon which the termination of work/training release is based, the reasons for the decision, a discussion of the ~~((inmate's or))~~ resident's personal culpability in the actions which have led to the termination, and an evaluation of the ~~((inmate's or))~~ resident's ~~((progress, attitudes, need for further programs including work training alternatives and readiness for parole))~~ adjustment while incarcerated.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-250 DISCIPLINARY HEARING—APPEAL. The ~~((inmate or))~~ resident may appeal the decision of the facility ~~((review committee))~~ disciplinary hearing officer to the ~~((community corrections regional administrator))~~ assistant director. Appeal requests

must be in writing, must be specific and based on objection to the procedures used or the information made available to the ~~((committee))~~ disciplinary hearing officer in making ~~((its))~~ his/her decision. Appeals must be submitted within five working days of the ~~((committee's))~~ disciplinary hearing officer's oral decision. The ~~((community corrections regional administrator, or his or her designee))~~ assistant director, upon receipt of an appeal, will review the findings and decision of the ~~((review committee))~~ disciplinary hearing officer and within ten working days will either:

(1) Affirm, or affirm and modify to a lesser sanction the decision of the ~~((facility review committee))~~ disciplinary hearing officer; or

(2) Reverse the decision of the ~~((facility review committee))~~ disciplinary hearing officer; or

(3) Remand the decision for additional findings or rehearing.

The ~~((reviewer's))~~ decision will be ~~((made promptly, normally not to exceed five working days, and))~~ given in writing to the ~~((inmate or))~~ resident and ~~((committee chairman in writing))~~ disciplinary hearing officer.

WSR 89-07-084

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF REVENUE

[Filed March 22, 1989]

Interpretation and Appeals Division, Department of Revenue, hereby withdraws its Notice No. WSR 89-01-035 of intent to adopt WAC 458-20-252, Hazardous substance tax filed with the code reviser's office on December 13, 1988. A new notice of intent is being filed covering Rule 252. The rule contains substantive changes from the previously announced version.

Ed Faker
Senior Administrative
Law Judge

WSR 89-07-085

PROPOSED RULES DEPARTMENT OF REVENUE

[Filed March 22, 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 hazardous substance tax, amending WAC 458-20-252; that the agency will at 9:30 a.m., Tuesday, April 25, 1989, in the Revenue Conference Room #205, Evergreen Plaza Building, 711 South Capitol Way, 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 May 2, 1989.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is Initiative 97, 1988, to be referred to as sections 8 through 12, chapter 2, Laws of 1989.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1989.

Dated: March 22, 1989
By: Garry G. Fujita
Assistant Director

STATEMENT OF PURPOSE

Title: WAC 458-20-252 Hazardous substance tax.

Description of Purpose: To implement the provisions of Initiative 97 which was passed by the electorate on November 9, 1988, to take effect on March 1, 1989. This initiative made significant, substantive changes in applications and exemptions regarding the taxation of possessions of hazardous substances in Washington state. The initiative prospectively repeals and replaces the provisions of chapter 2, Laws of 1987 3rd ex. sess. (SB 6085) codified as chapter 82.22 RCW. To explain the provisions of the initiative, provide definitions, and cite examples of tax applications, exemptions, and credits.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: Initiative 97, 1988, to be referred to as sections 8 through 12, chapter 2, Laws of 1989.

Reasons Supporting Proposed Action: Effective March 1, 1989, a new and separate excise tax is imposed in this state upon the privilege of possessing hazardous substances, which replaces the taxation, exemption, and credits provisions of chapter 82.22 RCW. The Department of Revenue is mandated to promulgate rules covering the proper procedures for reporting the tax, claiming exemptions, and applying for credits under the law. Adoption of the amended rule will occur only after a public hearing under the APA and full opportunity for all interested persons to be heard.

Agency Personnel Responsible for Drafting and Implementation: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

Small Business Economic Impact Statement: The proposed amendment to WAC 458-20-252 affects any business that possesses hazardous substances as defined by chapter 2, Laws of 1989. RCW 82.32.070 requires every business to keep suitable records to determine the amount of tax properly due. The Department of Revenue recognizes that some small businesses experience difficulties in obtaining "certificates" in order to perfect their entitlement to exemptions. The department, therefore, has incorporated language in section (4)(a)(ii) to allow other types of evidence to perfect entitlement to the "previously taxed hazardous substances" exemption in order to lessen the administrative impact on small business. The Department of Revenue is not aware of any other operating condition which would result in administrative costs substantially different than those of a larger business.

AMENDATORY SECTION (Amending Order 88-2, filed 2/26/88)

WAC 458-20-252 HAZARDOUS SUBSTANCE TAX. (1) Introduction. Under the provisions of chapter 82.22 RCW a hazardous substance tax ((is) was imposed, effective January 1, 1988, upon the wholesale value of certain substances and products, with specific credits and exemptions provided. This law is significantly changed, effective on March 1, 1989, because of Initiative 97 (I-97) which was passed by the voters in the November 8, 1988 general election. ((This)) The tax, which is reimposed by I-97, is an excise tax upon the privilege of possessing hazardous substances or products in this state. It is imposed in

addition to all other taxes of an excise or property tax nature and is not in lieu of any other such taxes.

(a) ((RCW 82.22.020)) I-97, which will be referred to as chapter 2, Laws of 1989, defines certain specific substances as being hazardous and includes other substances by reference to Federal legislation governing such things. It also provides authority to the director of the State Department of Ecology to designate any substances or products as hazardous which could present a threat to human health or the environment. The Department of Ecology, by duly published rule, defines and enumerates hazardous substances and products and otherwise administers the provisions of the law relating to hazardous and toxic or dangerous materials, waste, disposal, cleanup, remedial actions, and monitoring. (See Chapter 173-((340)) ___ of the Washington Administrative Code.)

(b) ((Chapter 82.22 RCW)) Sections 8 through 12 of I-97 consist((s)) of the tax provisions relating to hazardous substances and products which are administered exclusively under this section. The tax provisions relate exclusively to the possession of hazardous substances and products. The tax provisions do not relate to waste, releases or spills of any materials, cleanup, compensation, or liability for such things, nor does tax liability under the law depend upon such factors. The incidence or privilege which incurs tax liability is simply the possession of the hazardous substance or product, whether or not such possession actually causes any hazardous or dangerous circumstance.

(c) The hazardous substance tax is imposed upon any possession of a hazardous substance or product in this state by any person who is not expressly exempt of the tax. However, it is the intent of the law that the economic burden of the tax should fall upon the first such possession in this state. Therefore, the law provides that if the tax has not been paid upon any hazardous substance or product the department may collect the tax from any person who has had possession. The amount of tax paid then constitutes a debt owed by the first person having had taxable possession to the person who pays the tax. ((The provisions of parts (10) and (11) of this section reduce the tax payment obligations of successive possessors of hazardous substances and products to the greatest extent allowable under the law.))

(2) Definitions. For purposes of this section the following terms will apply.

(a) "Tax" means the hazardous substance tax imposed ((by RCW 82.22.030)) under Section 10 of I-97.

(b) "Hazardous substance" means anything designated as such by the provisions of ((WAC)) chapter 173-((340)) WAC, administered by the State Department of Ecology, as adopted and thereafter amended. In addition, the law defines this term to include:

(i) Any substance that, on ((January 1, 1988)) March 1, 1989, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by Public Law 99-499. These substances consist of chemicals and elements in their purest form. ((Products containing CERCLA chemicals and/or elements as ingredients)) A CERCLA substance which contains water is still considered pure. Combinations of CERCLA substances as ingredients together with nonhazardous substances will not be taxable unless the end product is specifically designated as a hazardous substance((s)) by the Department of Ecology.

(ii) petroleum products (further defined below);

(iii) pesticide products required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); and

(iv) anything else enumerated as a hazardous substance in Chapter 173-((340)) ___ WAC by the Department of Ecology.

(((v) Until April 1, 1988, "hazardous substance" does not include substances or products packaged as a household product and distributed for domestic use.))

(c) "Product(s)" means any item(s) containing a combination of ingredients, some of which are hazardous substances and some of which are not hazardous substances.

(d) "Petroleum product" means any plant condensate, lubricating oil, crankcase motor oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual fuel, asphalt base, liquefied or liquefiable gases, such as butane, ethane and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

(i) The term "derived from the refining of crude oil" as used herein, means produced because of and during petroleum processing. "Petroleum processing" includes all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to crude oil or any byproduct of crude oil so that as a result thereof a fuel or

lubricant is produced for sale or commercial or industrial use. "Fuel" includes all combustible gases and liquids suitable for the generation of energy. The term "derived from the refining of crude oil" does not mean petroleum products which are manufactured from refined oil derivatives, such as petroleum jellies, cleaning solvents, asphalt paving, etc. Such further manufactured products become hazardous substances only when expressly so designated by the Director of Ecology.

(e) "Possession" means control of a hazardous substance located within this state and includes both actual and constructive possession.

(i) "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(ii) "Actual possession" occurs when the person with control has physical possession.

(iii) "Constructive possession" occurs when the person with control does not have physical possession.

(f) "Previously taxed hazardous substance" means a hazardous substance upon which the tax has been paid and which has not been remanufactured or reprocessed in any manner.

(i) Remanufacturing or reprocessing does not include the mere repackaging or recycling for beneficial reuse. Rather, these terms embrace activities of a commercial or industrial nature involving the application of skill or labor by hand or machinery so that as a result, a new or different substance or product is produced.

(ii) "Recycling for beneficial reuse" means the recapturing of any used substance or product, for the sole purpose of extending the useful life of the original substance or product in its previously taxed form, without adding any new, different, or additional ingredient or component.

(iii) Example: Used motor oil drained from a crankcase, filtered, and containerized for reuse is not remanufactured or reprocessed. If the tax was paid on possession of the oil before use, the used oil is a previously taxed substance.

(iv) Possessions of used hazardous substances by persons who merely operate recycling centers or collection stations and who do not reprocess or remanufacture the used substances are not taxable possessions.

(g) "Wholesale value" is the tax measure or base. It means ~~(i) the fair market value determined by the wholesale selling price.~~

~~((i) the price paid by a wholesaler or retailer to a manufacturer, or (ii) the price paid by a retailer to a wholesaler when the price represents the value at the time of first possession in this state.~~

~~(iii) In cases where no sale has occurred, wholesale value means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character. In such cases the wholesale value shall be the "value of the products" as determined under the alternate methods set forth in WAC 458-20-112.~~

~~((iv) It is the intent of the law that the "wholesale value," which is the tax measure, should be as uniform and constant as possible throughout the chain of distribution from manufacture to retail sale. For special tax reporting formulas for retailers, see Part (11) of this section.))~~

(h) "Selling price" means consideration of any kind expressed in terms of money paid or delivered by a buyer to a seller, without any deductions for any costs whatsoever. Bona fide discounts actually granted to a buyer result in reductions in the selling price rather than deductions.

(i) "State," for purposes of the credit provisions of the hazardous substance tax, means:

(i) the state of Washington,

(ii) states of the United States or any political subdivisions of such other states,

(iii) the District of Columbia,

(iv) territories and possessions of the United States,

(v) any foreign country or political subdivision thereof.

(j) "Person" means any natural or artificial person, including a business organization of any kind, and has the further meaning defined in RCW 82.04.030.

(i) The term "natural person," for purposes of the tax exemption provided by ~~((RCW 82.22.040(2)))~~ Section 11(2) of 1-97 regarding substances used for personal or domestic purposes, means human beings in a private, as opposed to a business sense.

(k) Except as otherwise expressly defined in this section, the definitions of terms provided in chapters 82.04, 82.08, and 82.12 RCW apply equally for this section. Other terms not expressly defined in these chapters or this section are to be given their common and ordinary meanings.

(3) Tax rate and measure. The tax is imposed upon the privilege of possessing hazardous substances in this state. The tax rate is ~~((eight))~~ (.007). The tax measure or base is the wholesale value of the substance, as defined herein.

(4) Exemptions. The following are expressly exempt from the tax:

(a) Any successive possessions of any previously taxed hazardous substances are tax exempt.

(i) Any person who possesses a hazardous substance which has been acquired from any other person who is registered with the department of revenue and doing business in this state may take a written statement certifying that the tax has been previously paid. Such certifications must be taken in good faith and must be in the form provided in the last part of this section. Blanket certifications may be taken, as appropriate, which must be renewed at intervals not to exceed four years. These certifications may be used for any single hazardous substance or any broad classification of hazardous substances, e.g., "all chemicals."

(ii) In the absence of taking such certifications, the person who possesses any hazardous substance must ~~((prove))~~ retain proofs that it purchased or otherwise acquired the substance from a previous possessor in this state ~~((and that the tax has been paid))~~. It is not necessary for subsequent possessors to obtain certificates of previously taxed hazardous substances in order to perfect their tax exemption. Documentation which establishes any evidence of previous tax payment by another person will suffice. This includes invoices or billings from in state suppliers which reflect their payment of the tax or simple bills of lading or delivery documents revealing an in state source of the hazardous substances.

(iii) This exemption for taxes previously paid is available for any person in successive possession of a taxed hazardous substance even though the previous payment may have been satisfied by the use of credits or offsets available to the previous person in possession.

(iv) Example. Company A brings a substance into this state upon which it has paid a similar hazardous substance tax in another state. Company A takes a credit against its Washington tax liability in the amount of the other state's tax paid. It then sells the substance to Company B, and provides Company B with a Certificate of Previously Taxed Substance. Company B's possession is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) Any possession of a hazardous substance by a natural person for use of a personal or domestic nature rather than a business nature is tax exempt.

(i) This exemption extends to relatives, as well as other natural persons who reside with the person possessing the substance, and also to regular employees of that person who use the substance for the benefit of that person.

(ii) This exemption does not extend to possessions by any independent contractors hired by natural persons, which contractors themselves provide the hazardous substance.

(iii) Examples: Possessions of spray materials by an employee-gardener or soaps and cleaning solvents by an employee-domestic servant, when such substances are provided by the natural person for whose domestic benefit such things are used, are tax exempt. Also, possessions of fuel by private persons for use in privately owned vehicles are tax exempt.

(c) ~~((Any possessions of the following substances are tax exempt:~~

~~(i) alumina, natural gas, or petroleum coke;~~

~~(ii) liquid fuel or fuel gas used in processing petroleum;~~

~~(iii) petroleum products that are exported for use or sale outside this state as fuel;~~

~~(iv) The exemption for possessions of petroleum products for export sale or use as fuel may be taken by any person within the chain of distribution of such products in this state. To perfect its entitlement to this exemption the person possessing such substance(s) must take from its buyer or transferee of the substance(s) a written certification in substantially the following form:~~

~~Certificate of Tax-Exempt Export Petroleum Products~~

~~I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (seller or transferor), are for export for use or sale outside Washington state as fuel. I will become liable for and pay any hazardous substance tax due upon all or any part of such products which are not so exported outside Washington state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.~~

Registration No. _____ Type of Business _____
 (If applicable)

Firm Name _____ Registered Name _____
 (If different)

Authorized Signature _____

Title _____

Identity of Petroleum Product _____
 (Kind and amount by volume)

Date _____

(v) Each successive possessor of such petroleum products must, in turn, take a certification in this form from any other person to whom such petroleum products are sold or transferred in this state. Failure to take and keep such certifications as part of its permanent records will incur hazardous substance tax liability by such sellers or transferors of petroleum products.

(vi) Persons in possession of such petroleum products who themselves export or cause the exportation of such products to persons outside this state for further sale or use as fuel must keep the proofs of actual exportation required by WAC 458-20-193, Parts A or C. Example: Carriers who will purchase fuel in this state to be taken out of state in the fuel tanks of any ship, airplane, truck, or other carrier vehicle will provide their fuel suppliers with this certification. Then such carriers will directly report and pay the tax only upon the portion of such fuel actually consumed by them in this state. (With respect to fuel brought into this state in fuel tanks and partially consumed here, see the credit provisions of Part (5)(b) of this section.)

Any possession of any hazardous substance, other than pesticides or petroleum products, possessed by a retailer for making sales to consumers, in an amount which is determined to be "minimal" by the department of ecology. That department has determined that the term "minimal" means less than \$1,000.00 worth of such hazardous substances measured by their wholesale value, possessed during any calendar month.

(d) Possessions of alumina or natural gas are tax exempt.

(e) Persons or activities which the state is prohibited from taxing under the United States Constitution are tax exempt.

(i) This exemption extends to the U.S. Government, its agencies and instrumentalities, and to any possession the taxation of which has been expressly reserved or preempted under the laws of the United States.

(ii) The tax will not apply with respect to any possession of any hazardous substance purchased, extracted, produced or manufactured outside this state which is shipped or delivered into this state until the interstate transportation of such substance has finally ended in this state. Thus, out of state sellers or producers need not pay the tax on substances shipped directly to customers in this state. The customers must pay the tax upon their first possession unless otherwise expressly exempt.

(iii) Out of state sellers or producers will be subject to tax upon substances shipped or delivered to warehouses or other in state facilities owned, leased, or otherwise controlled by them.

(iv) However, the tax will not apply with respect to possessions of substances which are only temporarily stored or possessed in this state in connection with through, interstate movement of the substances from points of origin to points of destination both of which are outside of this state.

((c) Any possession of any hazardous substances which were already possessed before January 1, 1988 are tax exempt. This exemption extends to current inventories and stocks of hazardous substances on hand on January 1, 1988 when the tax first takes effect. The intent is that the hazardous substance tax has no retroactive application.

(i) It is the intent, under the law, that this exemption will apply to the substances throughout their succeeding chain of distribution, in the possession of any person, for the life of those substances. That is, hazardous substances already possessed as of December 31, 1987 will not incur tax liability in the possession of any person at any time.

(ii) Persons who already possess any hazardous substances on December 31, 1987 must use a first-in-first-out (FIFO) accounting method for depleting such supplies, supported by their purchase, sales, or transfer records.

(iii) Because this exemption will follow the hazardous substances into the possession of any subsequent or succeeding possessors, sellers of such exempt current inventory substances should provide their registered buyers in this state with the Certificate of Previously Taxed Hazardous Substance set forth in Part (15) of this section.)

(f) The former exemption for petroleum products for export sale or use outside this state as fuel was effectively repealed by I-97. There are no exemptions under the law for any possessions of hazardous substances in this state simply because such substances may later be sold or used outside this state.

(g) Though I-97 contains an exemption for persons possessing any hazardous substance where such possession first occurred before March 1, 1989, this exemption applies only to the tax imposed under I-97. It does not apply retroactively to excuse the hazardous substance tax which was imposed under chapter 82.22 RCW in effect from January 1, 1988 until March 1, 1989. However:

(i) TRANSITIONAL RULE: Persons who possess stocks or inventories of petroleum products as of March 1, 1989, which are destined for sale or use outside this state as fuel are not subject to tax upon such possessions of preexisting inventories. For periods before March 1, 1989 the former exemption of RCW 82.22.040(3) for export petroleum products applies. For periods on and after March 1, 1989 the exemption for preprocessed hazardous substances explained in subsection (g) above will apply. Records appropriate to establish that such petroleum products were destined for out of state sale or use as fuel must be retained by any possessor claiming exemption under this transitional rule.

(5) Credits. There are three distinct kinds of tax credits against liability which are available under the law.

(a) A credit may be taken by any manufacturer or processor of a hazardous substance produced from ingredients or components which are themselves hazardous substances, and upon which the hazardous substance tax has been paid by the same person or is due for payment by the same person.

(i) Example. A manufacturer possesses hazardous chemicals which it combines to produce an acid which is also designated as a hazardous substance or product. When it reports the tax upon the wholesale value of the acid it may use a credit to offset the tax by the amount of tax it has already paid or reported upon the hazardous chemical ingredients or components. In this manner the intent of the law to tax hazardous substances only once is fulfilled.

(ii) Under circumstances where the hazardous ingredient and the hazardous end product are both possessed by the same person during the same tax reporting period, the tax on the respective substances must be computed and the former must be offset against the latter so that the tax return reflects the tax liability after the credit adjustment.

(iii) This credit may be taken only by manufacturers who have the first possession in this state of both the hazardous ingredients and the hazardous end product.

(b) A credit may be taken in the amount of the hazardous substance tax ((paid)) upon the value of fuel which is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(i) ((The purpose of this credit is to extend the same tax exclusion which exists for exported fuel (part (4)(c) above) to fuel which is possessed and partly used in this state before crossing the boundaries of this state in any fuel tank attached to any transportation vehicle powered by such fuel.

(ii)) The credit may be claimed only for the amount of tax reported or actually due to be paid on the fuel, not the amount representing the value of the fuel.

((iii)) (ii) The purpose of this credit is to exclude from taxation any possessions of fuel which remains in the fuel tanks of any carrier vehicles powered by such fuel when they leave this state, regardless of where or from whom such fuel-in-tanks was acquired.

(iii) The nature of this credit is such that it generally has application only for interstate and foreign private or common carriers ((whose fuel tanks contain fuel which was not first possessed by some other person in this state who paid the tax. The credit is limited to the person who carries the fuel from this state and cannot be claimed by any person who previously possessed the fuel in this state and paid the tax.)) who carry fuel into this state and/or purchase fuel in this state. The intent is that the tax will apply only to so much of such fuel as is actually consumed by such carriers within this state.

((iv) Interstate/foreign carriers who purchase fuel in this state do not require, and may not use this credit in respect to such locally purchased fuel. Instead, the export fuel exemption set forth at part (4)(c)(iii) will be used. Thus, this fuel-in-tanks credit is applicable only for fuel brought into this state in fuel tanks, part of which is then taken out of this state in the fuel tanks. The intent is that the tax will apply only to so much of such fuel as is consumed by such carriers in this state.

(v) Example. An airline company enters this state with its fuel tanks partially full of fuel which has not been possessed and taxed earlier in

this state. The fuel in the tanks is, therefore, first possessed in this state by the airline company, has not been previously taxed, and the possession is not expressly tax exempt. Only the amount of fuel actually used in this state is subject to the tax because this credit may be taken for the tax paid on the portion of fuel allocated to use after the airplane exits this state:))

(iv) In order to equitably and efficiently administer this tax credit, any fuel which is brought into this state in carrier vehicle fuel tanks must be accounted for separately from fuel which is purchased in this state for use in such fuel tanks. Formulas approved by the department for reporting the amount of fuel consumed in this state for purposes of this tax or other excise tax purposes will satisfy the separate accounting required under this subsection.

(v) Fuel-in-tanks brought into this state must be fully reported for tax and then the credit must be taken in the amount of such fuel which is taken back out of this state. This is to be done on the same periodic excise tax return so that the net effect is that the tax is actually paid only upon the portion of fuel consumed here.

(vi) The credit for fuel-in-tanks purchased in this state must be accounted for by using a fuel-in-tanks credit certificate in substantially the following form:

CERTIFICATE OF CREDIT FOR FUEL CARRIED FROM THIS STATE IN FUEL TANKS

I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (name of seller or transferor), are entitled to the credit for fuel which is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle operated by a private or common carrier in interstate or foreign commerce. I will become liable for and pay the hazardous substance tax due upon all or any part of such fuel which is not so carried from this state. This certification is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. _____
 _____ (if applicable)

Type of Business _____
 Firm Name _____
 Business Address _____
 Registered Name _____

Tax Reporting Agent _____
 _____ (if different)

Authorized Signature _____
 Title _____
 Identity of Fuel _____
 _____ (kind and amount by volume)

Date: _____

(vii) This certificate may be executed and provided to any possessor of fuel in this state, throughout the chain of distribution, with respect to fuel which ultimately will be sold and delivered into any carrier's fuel tanks in this state. Thus, refiners or manufacturers will take such certificates directly from carriers or from their wholesale purchasers who will sell to such carriers. Similarly, fuel dealers and distributors will take such certificates from carriers to whom they sell such fuel. These certificates must be retained as a permanent part of such seller's business records.

(viii) Persons who execute and provide these credit certificates to their fuel suppliers must retain suitable purchase and sales records as may be necessary to determine the amount of tax for which such persons may be liable.

(ix) Blanket certificates may be used to cover recurrent purchases of fuel by the same purchaser. Such blanket certificates must be renewed every two years.

(c) A credit may be taken against the tax owed in this state in the amount of any other state's hazardous substance tax which has been paid by the same person measured by the wholesale value of the same hazardous substance.

(i) In order for this credit to apply, the other state's tax must be significantly similar to Washington's tax in all its various respects. The taxable incident must be possessing the substance; the tax purpose must be that the substance is hazardous; and the tax measure must be stated in terms of the wholesale value of the substance, without deductions for costs of doing business, such that the other state's tax does not constitute an income tax or added value tax.

(ii) This credit may be taken for the amount of any other state's qualifying tax which has actually been paid ((either)) before ((or after)) Washington State's tax is ((paid)) incurred because the substance

was previously possessed by the same person in another taxing jurisdiction.

(iii) The amount of credit is limited to the amount of tax paid in this state upon possession of the same hazardous substance in this state. Also, the credit may not be applied against any tax paid or owed in this state other than the hazardous substance tax imposed by ((RCW 82-22-030)) Section 10 of I-97.

(iv) Exchange agreements under which hazardous substances or products possessed in this state are exchanged through any accounts crediting system with like substances possessed in other states do not qualify for this credit. The substance taxed in another state, and for which this credit is sought, must be actually, physically possessed in this state.

(v) Persons claiming this credit must maintain records necessary to verify that the credit taking qualifications have been met. See WAC 458-20-19301, part (9) for record keeping requirements. The department of revenue will publish an Excise Tax Bulletin listing other states' taxes which qualify for this credit.

(6) Newly defined hazardous substances. The Director of Ecology may identify and designate things as being hazardous substances after ((January 1, 1988)) March 1, 1989. Also, things designated as hazardous substances may be deleted from this definition. Such actions are done by the adoption and subsequent periodic amendments to rules of the Department of Ecology under the Washington Administrative Code.

(a) The law allows the addition or deletion of substances as hazardous by rule amendments, no more often than twice in any calendar year.

(b) When such definitions are changed, they do not take effect for tax purposes until the first day of the following month which is at least thirty days after the effective date of rule action by the Department of Ecology.

(i) Example. The Department of Ecology adopts or amends the rule by adding a new substance and the effective date of the amendment is ((January)) June 15. Possession of the substance does not become taxable until ((March)) August 1.

(ii) ((The exemption for current inventories and stocks on hand explained at part (5)(c) of this section does not apply to possessions of hazardous substances newly added by rule:)) The tax is owed by any person who has possession of the newly designated hazardous substance upon the tax effective date as explained herein. It is immaterial that the person in possession on that date was not the first person in possession of the substance in this state before it was designated as hazardous.

(7) Recurrent tax liability. It is the intent of the law that all hazardous substances possessed in this state should incur this tax liability only once unless they are expressly exempt. This is true of hazardous ingredients of products as well as the manufactured end product itself, if designated as a hazardous substance. The exemption for previously taxed hazardous substances does not apply to "products" which have been manufactured or remanufactured simply because an ingredient or ingredients of that product may have already been taxed when possessed by the manufacturer. Instead of an exemption, manufacturers in possession of both the hazardous ingredient(s) and end product(s) should use the credit provision explained at Part (5)(a) of this section.

(a) However, the term "product" is defined to mean only an item or items which contain a combination of both hazardous substance(s) and non-hazardous substance(s). The term does not include combinations of only hazardous substances. Thus, possessions of substances produced by combining other hazardous substances upon all of which the tax has previously been paid will not again be taxable.

(b) When any hazardous substance(s) is first produced during and because of any physical combination or chemical reaction which occurs in a manufacturing or processing activity, the intermediate possession of such substance(s) within the manufacturing or processing plant is not considered a taxable possession if the substance(s) becomes a component or ingredient of the product being manufactured or processed or is otherwise consumed during the manufacturing or processing activity.

(i) However, when any intermediate hazardous substance is first produced during a manufacturing or processing activity and is withdrawn for sale or transfer outside of the manufacturing or processing plant, a taxable first possession occurs.

(c) Concentrations or dilutions for shipment or storage. The mere addition or withdrawal of water or other nonhazardous substances to or from hazardous substances designated under CERCLA or FIFRA

for the sole purpose of transportation, storage, or the later manufacturing use of such substances does not result in any new hazardous product.

(8) How and when to pay tax. The tax must be reported on a special line of the combined excise tax return designated "hazardous substances." It is due for payment together with the timely filing of the return upon which it is reported, covering the tax reporting period during which the hazardous substance(s) is first possessed within this state. Any person who is not expressly exempt of the tax and who possesses any hazardous substance in this state, without having proof that the tax has previously been paid on that substance, must report and pay the tax.

(a) It may be that the person who purchases a hazardous substance will not have billing information from which to determine the wholesale value of the substance when the tax return for the period of possession is due. In such cases the tax is due for payment no later than the next regular reporting due date following the reporting period in which the substance(s) is first possessed.

(b) The taxable incident or event is the possession of the substance. Tax is due for payment by the purchaser of any hazardous substance whether or not the purchase price has been paid in part or in full.

(c) Special provision for manufacturers, refiners, and processors. ~~((Because it is not possible to know, at the time of first possession in this state, whether a hazardous substance may be used or sold in a manner which would entitle the first possession to tax exemption, m))~~ Manufacturers, refiners, and processors who possess hazardous substances are required to report the tax and take any available exemptions and credits only at the time that such hazardous substances are withdrawn from storage for purposes of their sale, transfer, remanufacture, or consumption.

(9) How and when to claim credits. Credits should be claimed and offset against tax liability reported on the same excise tax return when possible. The tax return form provides a line for reporting tax on hazardous substances and a line for taking credits as an offset against the tax reported. It is not required that any documents or other evidences of entitlement to credits be submitted with the report. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

(10) ~~((Successive possessions of the same hazardous substance. The law provides that the department of revenue may collect the tax from any person who has had possession of a hazardous substance in this state, if the tax has not already been paid by any person. The law also provides that the tax measure, wholesale value, should be as uniform as possible throughout the chain of possession. Wholesale value is determined by the wholesale selling price.~~

~~(a) When tax is collected by the department from any person having successive possession of a substance, because no tax was previously paid on that same substance, the wholesale selling price means the price paid to any manufacturer or wholesaler who first had possession in this state.~~

~~(b) In determining this wholesale selling price, the charges for shipping, delivery, warehousing, or any other such charges representing cost increments accrued after the first wholesale sale in this state are not included. Thus, the tax collected from any person having successive possession should be no greater than what the tax would have been if collected from the person who had first possession of the substance in this state.~~

~~((11) Formulary or percentage tax reporting. The law provides that when the burden of the tax falls upon retailers, when they are the first persons in possession in this state, the tax burden should be equal to the same burden when it falls upon manufacturers or first level wholesalers earlier in the distribution chain. Because the tax measure is the wholesale value of the substance when first possessed in this state, that measure should remain constant regardless of who is the first person in possession. This is true even when the first person in possession is a retailer or any other purchaser or transferee of a hazardous substance from any out-of-state seller or transferor other than the out of state manufacturer of the substance.~~

~~(a) It may be that the retailer or other importer first in possession will not have access to records reflecting the manufacturer's wholesale value of a hazardous substance. RCW 82.22.030 provides that in such cases the tax may be imposed upon a "percentage of sales" for any class of retailer so as to equalize the tax burden for all persons in possession of hazardous substances. Therefore, in order to derive a tax measure which will reasonably approximate the manufacturer's wholesale selling price, retailers or other importers who are the first persons~~

~~in possession of hazardous substances in this state may report and pay the tax under one of the following methods:~~

~~(i) measured by manufacturer's wholesale value as shown upon any actual accounting records available, or;~~

~~(ii) measured by sixty percent (60%) of gross receipts from retail sales of hazardous substances which have not been previously taxed; or;~~

~~(iii) measured by the possessor's cost, less twenty percent (20%), of all such substances not previously taxed; or;~~

~~(iv) under circumstances where none of the above methods fairly reflects what the wholesale value would have been at the time and place of first possession by a manufacturer in this state, then the retailer may submit a percentage of sales formula for prior approval by the department of revenue;~~

~~(v) It is not the intent of these formulary tax measurement provisions to derive any tax measure below or less than the manufacturer's wholesale value;~~

~~(b)) Special provision for consumer/first possessors. Under circumstances where the consumer is the first person in possession of any non-exempt hazardous substance (e.g., substances imported by the consumer), or where the consumer is the person who must pay the tax upon substances previously possessed in this state (fuel purchased for export in fuel tanks) the consumer's tax measure will be ~~((sixty percent (60%)))~~ eighty percent (80%) of its retail purchase price. This provision ~~((, again,))~~ is intended to ~~((equalize the))~~ achieve a tax measure ~~((for all taxable persons possessing hazardous substances))~~ equivalent to the wholesale value.~~

~~((12)) (11) Hazardous substances or products on consignment. Consignees who possess hazardous substances or products in this state with the power to sell such things, in their own name or on behalf of a disclosed or undisclosed consignor are liable for payment of the tax. The exemption for previously taxed substances is available for such consignees only if the consignors have paid the tax and the consignee has retained the certification or other proof of previous tax payment referred to in part (4)(i) and (ii) of this section. Possession of consigned hazardous substances by a consignee does not constitute constructive possession by the consignor.~~

~~((13)) (12) Hazardous substances untraceable to source. Various circumstances may arise whereby a person will possess hazardous substances in this state, some of which have been previously taxed in this or other states and some of which may not. In such cases ~~((the))~~ formulary tax reporting ~~((of part (11) of this section))~~ may be used, ~~((including the))~~ only upon a ~~((request for a))~~ special ruling by the department of revenue.~~

~~(a) Example. Fungible petroleum products from sources both within and outside this state are commingled in common storage facilities. Formulary reporting is appropriate based upon volume percentages reflecting the ratio of in-state production to out-of-state production or other form of acquisition.~~

~~((14)) (13) Administrative provisions. The provisions of chapter 82.32 RCW regarding due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all such general administrative provisions apply equally to the hazardous substance tax. Special requested rulings covering unique circumstances generally will be issued within sixty days from the date upon which complete information is provided to the department of revenue.~~

~~((15)) (14) Certification of previously taxed hazardous substance. Certification that the hazardous substance tax has already been paid by a person previously in possession of the substance(s) may be taken in substantially the following form:~~

I hereby certify that this purchase - all purchases of _____
(omit one)
by _____
(identify substance(s) purchased) (name of purchaser)
who possesses registration no. _____
(buyer's number, if registered)

consists of the purchase of hazardous substance(s) or product(s) upon which the ~~((tax imposed by RCW 82.22.030))~~ hazardous substance tax has been paid in full by a person previously in possession of the substance(s) or product(s) in this state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion, and with the full knowledge and agreement that the undersigned hereby assumes any liability for hazardous substance tax which has not been previously paid because of possession of the hazardous substance(s) or product(s) identified herein.

The registered seller named below personally paid the tax upon possession of the hazardous substances.
 A person in possession of the hazardous substances prior to the possession of the registered seller named below paid the tax.
 This certificate is being used to cover tax exempt existing inventories which were possessed in this state on December 31, 1987.
 (Check the appropriate line.)

Name of registered seller _____ Registration No. _____
 Firm name _____ Address _____
 Type of business _____
 Authorized signature _____ Title _____
 Date _____

WSR 89-07-086
ADOPTED RULES
INSURANCE COMMISSIONER
 [Order R 89-4—Filed March 22, 1989]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to 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.

This action is taken pursuant to Notice No. WSR 89-05-050 filed with the code reviser on February 15, 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 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 March 22, 1989.

Dick Marquardt
 Insurance Commissioner
 By David H. Rodgers
 Chief Deputy
 Insurance Commissioner

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 equals or 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 89-07-087
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed March 22, 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 chapter 458-14 WAC;

that the agency will at 9:00 a.m., Wednesday, April 26, 1989, in the General Administration Building, 1st Floor Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 5, 1989.

The authority under which these rules are proposed is RCW 84.08.010 and 84.48.200.

The specific statute these rules are intended to implement is chapter 84.48 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Wednesday, April 26, 1989.

Dated: March 22, 1989

By: Steve 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: Chapter 458-14 WAC, County boards of equalization.

Purpose: To repeal rules currently in effect and to adopt new rules.

Statutory Authority: RCW 84.48.200 directs the department to make rules necessary or desirable to permit effective administration of chapter 84.48 RCW.

Summary and Reasons for the Rule: These rules govern the practice and procedure of the various county boards of equalization.

Drafter of the Rule: Larry D. Stout, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 586-4739; 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 458-14-005 DEFINITIONS. (1) "Assessor" means the county assessor and includes deputy assessors.

(2) "Assessed value" means the value placed on property by an assessor.

(3) "Board" means a county board of equalization.

(4) "County legislative authority" means the board of county commissioners or the county legislative body as established under a home rule charter.

(5) "Department" means the department of revenue.

(6) "Equalize" refers to the action of a board of raising or lowering the value of property which is erroneously assessed.

(7) "Exemption" includes current use exemptions.

(8) "May" as used in this chapter is expressly intended to be permissive.

(9) "Member" means a member of a board.

(10) "Notice of appeal" means the form used to begin an appeal to a board.

(11) "Reconvene" means for the department to order a board to hear an appeal of the assessed value of property for either the current assessment year when a change in value is received after a board convenes its equalization session or a prior assessment year.

(12) "Shall" as used in this chapter is expressly intended to be mandatory.

NEW SECTION

WAC 458-14-009 DUTIES OF A BOARD—EQUALIZATION—CANCELLATION OF TAXES. (1) In carrying out its equalization duties a board shall follow the guidelines contained in the department's equalization manual, copies of which are available for public inspection at the office of the board and the assessor's office.

(2) A board shall cancel all unpaid taxes on property which belongs exclusively to the state or to any county or municipal corporation.

NEW SECTION

WAC 458-14-014 QUALIFICATIONS OF MEMBERS—APPOINTMENT—REAPPOINTMENT—INTERIM MEMBERS—LIMITATIONS. (1) Board members shall be a resident of the county where the board is located and shall have attended the department's equalization seminar.

(2) Board members shall be appointed prior to June 1st.

(3) To remain on a board a member shall be reappointed by June 1st of the third June after appointment.

(4) Interim members appointed to fill vacancies shall attend the next equalization seminar held by the department.

(5) A board shall not be comprised of a mix of persons who are members of the county legislative authority and persons who are not members of the county legislative authority.

NEW SECTION

WAC 458-14-015 ALTERNATE BOARD MEMBERS. The county legislative authority may appoint alternate board members to serve in the absence of the regular board members. Alternate board members shall meet the same qualifications and subscribe to the same oath as regular members.

NEW SECTION

WAC 458-14-016 HEARING EXAMINERS. (1) Any board consisting of seven members may employ one or more hearing examiners to assist the board in conducting appeals.

(2) All hearing examiners shall take the same oath required of regular board members.

(3) A board member may act as a hearing examiner.

(4) Hearings examiners shall present to the full board all evidence submitted by the parties at the hearing. The board may make its final determination based upon the record submitted by the examiner or may request further testimony or documentation from either taxpayers or assessors before making a final determination.

NEW SECTION

WAC 458-14-017 CONFLICTS OF INTEREST. (1) Board members shall disqualify themselves from hearing an appeal involving property owned in whole or in part by members or employees of the board or their families.

(2) Board members who are or who have been real estate appraisers shall disqualify themselves from hearing an appeal involving property which they have appraised.

(3) If a board cannot achieve a quorum due to a conflict of interest, the board shall summarily sustain the assessor's determination. The appellant shall be advised by the board of the right to appeal to the state board of tax appeals.

NEW SECTION

WAC 458-14-019 APPEALS—TIME LIMITS. (1) A board shall not hear an appeal which is not timely filed unless the failure to timely file was due to documented:

(a) Death or serious illness of the taxpayer; or

(b) Absence of the taxpayer during the filing period.

(2) If a notice of appeal is filed by mail it shall be postmarked no later than midnight of the filing deadline. If the filing deadline falls upon a weekend or county holiday, the notice of appeal shall be filed on or postmarked no later than midnight of the next business day.

(3) Notice of appeal forms are available from the board and from the county assessor's office.

NEW SECTION

WAC 458-14-021 REQUESTS FOR VALUATION INFORMATION—TIME LIMITS. (1) All requests for information pursuant

to RCW 84.48.150 shall be made directly to the assessor within ten business days of the date of filing of the notice of appeal.

(2) Assessors shall mail all requested information in the assessor's possession to the taxpayer within thirty days of receiving the request.

NEW SECTION

WAC 458-14-023 HEARINGS ON APPEALS. (1) The board or one of its hearings examiners shall hold individual hearings on each properly filed appeal.

(2) All named parties to the appeal shall be mailed notice of the hearing date by the clerk of the board at least ten days before the hearing.

(3) Parties shall submit copies of all evidence which supports their respective positions within thirty days of the filing of a notice of appeal. The deadline for filing documentary evidence may be extended by the board up to thirty additional days upon a showing that the party requesting the extension is making a diligent effort to obtain the required evidence. The deadline for filing documentary evidence may be further extended by order of the department upon written request from a party to an appeal. A request to the department shall state the reason(s) why an extension is necessary and shall specify the length of extension requested.

(4) All persons testifying before the board shall affirm on the record that they will testify truthfully subject to penalty of perjury.

(5) A board shall not overturn a determination of an assessor unless there is clear, cogent, and convincing evidence that the assessor's determination is erroneous.

NEW SECTION

WAC 458-14-025 NOTICE OF EQUALIZED VALUE—EFFECTIVE DATE. (1) If a board adjusts the value of property during its equalization session the board shall mail a notice of the adjustment to the taxpayer and the assessor.

(2) The adjustment in value shall become effective thirty days after the date of mailing of notice of the adjustment unless the taxpayer or assessor files a written request for a hearing before the effective date.

NEW SECTION

WAC 458-14-027 HEARINGS—OPEN SESSIONS—EXCEPTIONS. (1) All board hearings shall be open to the public unless a party requests that part or all of a hearing be conducted in closed session in accordance with subsection (2) of this section.

(2) If one of the parties will introduce evidence obtained under RCW 84.40.340 or confidential income data exempted from public inspection pursuant to RCW 42.17.310 and requests that the hearing be closed to the public the board shall conduct the hearing in closed session.

NEW SECTION

WAC 458-14-029 RECORD OF HEARINGS. (1) All hearings of a board or its hearing examiners shall be recorded with an audio recording device; however, testimony concerning information which is exempt from public disclosure pursuant to RCW 84.40.340 or 42.17.310 shall not be recorded.

(2) The record shall include:

(a) The date the board was in session;

(b) The names of board members or hearing examiners in attendance.

(3) This section shall not apply to post hearing deliberations of a board.

(4) This section does not require a board to provide transcripts of proceedings.

NEW SECTION

WAC 458-14-031 ORDERS OF THE BOARD. All orders issued by a board shall conform to the guidelines contained in the department's equalization manual.

NEW SECTION

WAC 458-14-042 TRAINING SEMINARS. (1) All current board members shall attend one of the department's 1989 equalization training seminars.

(2) All members appointed after June 1989 shall attend the department's yearly equalization seminar.

NEW SECTION

WAC 458-14-160 RECONVENED BOARDS—AUTHORITY. (1) The department shall upon written request by a board, assessor, or treasurer order a board to reconvene where:

(a) A notice of a change in value was not sent to the taxpayer of record in the assessment year in issue and the taxpayer submits a sworn affidavit that notice was not received. In such cases the taxpayer shall ask the board to request a reconvene on behalf of the taxpayer;

(b) An assessor or treasurer requests that a prior year's board be reconvened to correct errors as authorized by RCW 84.48.065.

(2) The department shall reconvene a board upon request of a taxpayer where the taxpayer makes a showing of actual or constructive fraud on the part of taxing officials.

(3) All reconvening requests shall:

(a) Specify the assessment year(s) which are the subject of the request;

(b) State the specific grounds upon which the request is based.

(4) A board shall consider only those issues which have been designated for consideration by the department.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 458-14-010 RECONVENING COUNTY BOARDS OF EQUALIZATION—BY WHOM.

WAC 458-14-020 RECONVENING COUNTY BOARDS OF EQUALIZATION—CONTENTS OF REQUEST.

WAC 458-14-030 CONTENT OF ORDER—LIMITATION ON WHAT COUNTY BOARD MAY CONSIDER.

WAC 458-14-040 LIMITATIONS ON RECONVENING.

WAC 458-14-045 RECONVENING UPON TIMELY FILED PETITION—LIMITATIONS.

WAC 458-14-050 MEMBERSHIP.

WAC 458-14-052 CHANGE OF VENUE.

WAC 458-14-055 CLERK.

WAC 458-14-060 LEGAL ADVISOR.

WAC 458-14-062 PROPERTY TAX ADVISOR.

WAC 458-14-065 APPRAISERS.

WAC 458-14-070 PUBLIC NOTICE OF JULY MEETINGS.

WAC 458-14-075 MEETINGS.

WAC 458-14-080 ORGANIZATION OF THE BOARD.

WAC 458-14-085 RECORD OF PROCEEDINGS—IN GENERAL.

WAC 458-14-086 ADDITIONAL RECORD REQUIREMENTS.

WAC 458-14-090 ASSESSMENT ROLL AND RECORDS.

WAC 458-14-091 CERTIFICATION OF THE VALUATION OF THE ASSESSMENT ROLL BY ASSESSOR.

WAC 458-14-092 CHANGE OF ASSESSMENT ROLLS.

WAC 458-14-094 AVAILABILITY OF VALUATION INFORMATION.

WAC 458-14-098 REVIEW OF VALUATION.

WAC 458-14-100 DUTIES OF THE BOARD.

WAC 458-14-110 NOTICE OF RAISE IN VALUATION BY THE BOARD.

WAC 458-14-115 EXEMPT PROPERTIES.

WAC 458-14-120 PETITIONS.

WAC 458-14-121 ACTION ON APPEALS.

WAC 458-14-122 APPEAL OF BOARD MEMBERS, ASSISTANTS, OR COUNTY GOVERNMENTAL AUTHORITIES.

WAC 458-14-125 HEARING ON PETITION.

WAC 458-14-126 HEARING EXAMINERS.

WAC 458-14-130 ORDERS OF THE BOARD.

WAC 458-14-135 APPEALS.

WAC 458-14-140 RECORDS TO STATE BOARD.

WAC 458-14-145 JUNE MEETING.

WAC 458-14-150 NOVEMBER MEETING.

WAC 458-14-152 MANIFEST ERRORS.

WAC 458-14-155 DEFINITIONS.

WSR 89-07-088
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed March 22, 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:

New	ch. 173-224 WAC	Wastewater discharge permit fees.
Rep	ch. 173-223 WAC	Interim wastewater discharge permit fees.

Chapter 173-224 WAC, Wastewater discharge permit fees.

Initiative 97, passed by voters in the November 1988 general election, requires the Department of Ecology to establish annual fees to collect expenses for issuing and administering each class of permits issued under RCW 90.48.160, 90.48.162 and 90.48.260.

Fees shall be established in amounts to fully recover the following state expenses: Processing permit applications and modifications; monitoring and evaluating compliance with permits; conducting inspections; securing laboratory analysis of samples taken during inspections; reviewing plans and documents directly related to operations of permittees; overseeing performance of delegated pretreatment programs; and supporting the overhead expenses that are directly related to these activities.

Municipal permit fees will be no more than sixty cents per year per residential equivalent. This fee schedule will remain in place for state FY 90 and FY 91.

The department, in response to this initiative, had developed a permit fee regulation/permit fee schedule shown below that establishes fees based on these administrative expenses for each discharger category.

Public hearings are scheduled for April/May with adoption on May 30, 1989.

Repealing chapter 173-223 WAC, Interim wastewater discharger permit fees, so that no person, as defined in WAC 173-224-040, will have to pay an annual permit fee under this chapter for FY 90 and beyond;

that the agency will at 1 p.m. Public Workshop, 4:00 p.m., Wednesday, April 26, 1989, in the Energy Facility Site Evaluation Council Hearings Room, Building #1, 4224 6th Avenue, Lacey, and at 1 p.m. Public Workshop, 4:00 p.m., Friday, April 28, 1989, EWU, Spokane Center, Room B-13, West 705 First at Wall, Spokane, and at 1 p.m. Public Workshop, 4:00 p.m., Monday, May 1, 1989, Yakima, County, Extension Service, 128 North 2nd Street, Yakima, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1989.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 90.48 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., May 10, 1989.

Dated: March 22, 1989
 By: Carol Jolly
 Assistant Director

STATEMENT OF PURPOSE

Title: Wastewater discharge permit fees and interim wastewater discharge permit fees.

Description of Purpose: To adopt a fee schedule to recover administrative expenses incurred by the department in the issuance and administration of wastewater discharge permits.

Statutory Authority: Initiative 97.

Specific Statute Rule is Intended to Implement: Initiative 97, sections 13 - 14.

Summary of Rule: To establish a fee schedule as a basis for the Department of Ecology to charge fees to recover expenses incurred in the issuance and administration of wastewater discharge permits. The proposed wastewater discharge permit fees regulation will take the place of the current interim wastewater discharge permit fees regulation.

Reasons Supporting Proposed Action: To provide adequate resources for ecology to administer the water quality wastewater discharge permit program.

Agency Personnel Responsible for Drafting: Beverly Poston, 438-7039; Implementation: Renee Thomas, 459-6035; and Enforcement: John Glynn, 438-7030, located at Mailstop PV-11, Olympia.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: [No information supplied by agency.]

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: N/A.

Small Business Economic Impact Statement: The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20% of all industries or more than 10% of the businesses in any one industry be reviewed and altered to minimize their impact upon small businesses. This regulatory proposal has been reviewed in light of that requirement. The conclusion of this review are summarized below.

It should be noted that this analysis is only concerned with the private sector of the economy. Many wastewater discharge permits are held by cities, counties, sewer districts, water districts, publicly-owned electric utilities, and state government agencies. The impact of the amendments to the permit fee rule on these governments is not examined in this analysis.

RCW 19.85.040 requires that the costs of complying with the rule for small businesses be compared to the costs of compliance for large businesses. A small business is defined as a corporation partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses, and which has fifty or fewer employees. The cost of complying with chapter 173-224 WAC is the change in the fee charged for a wastewater discharge permit.

Industrial Facilities

There are 680 holders of permits for industrial facilities. Some of these are held by governments but most are held by private businesses.

The following analysis uses the percentage that the fee is of the permit holder's sales as the measure of the fee's impact. Estimated, rather than actual, sales are used when comparing the impact of changes in permit fees on small and large businesses.

Data from *1985 County Business Patterns: Washington* (United States Department of Commerce, Bureau of the Census, 1987) were used to estimate the average payroll for small and large businesses. Data from the *1982 Census of Manufacturers: Washington* and the *1982 Census of Wholesale Trade: Washington* (United States Department of Commerce, Bureau of the Census, 1985) were used to calculate average sales-to-payroll ratios. Using these ratios and the estimates of the average payroll, estimates of average sales were made. Then, estimates of the fee as a percentage of sales were made. In addition, sales and employment data from the *1988/1989 Washington Manufacturer's Register* (Times Mirror Press, 1988) were used to estimate the impact of the permit fees on some of the larger manufacturers which hold permits.

The permit fees under both the original fee rule and under chapter 173-224 WAC are intended to recover the administrative expenses incurred by the Department of Ecology in issuing and administering wastewater discharge permits. Thus the fee for each category or subcategory of the industrial facilities is chiefly determined by the costs of issuing and administering the average permit in that category or subcategory.

It is estimated that under the original fee rule (chapter 173-223 WAC) the fee-to-sales ratio for small businesses ranged between .01 and 1.00 percent. The fee-to-sales ratio for large businesses is estimated to have ranged between .001 and .12 percent. Thus, the impact of the fees was greater on small businesses than on large businesses.

The method of estimating the fee-to-sales ratios is poor: The estimated ratios have high variances. Therefore, it is very difficult to make good quantitative estimates of the amount by which the fee-to-sales ratios for small and large businesses change as a result of the changes made by chapter 173-224 WAC. However, the fee-to-sales ratio ranges for small and large businesses should be near those of the original fee rule. But the two ranges should move closer together as a result of the changes in the fee schedule made by chapter 173-224 WAC.

The new fee rule's fee schedule includes many more categories than the original rule. The reason for this is the desire to make the fees closer to the actual costs of issuing and administering each permit. As a result of these changes in the fee schedule, most permit holder's fees will either rise or fall. Few will stay the same.

Because it is believed that costs of issuing and administering permits rise with the amount of wastewater discharge and production, many of the new fee categories have subcategories that are determined by the amount of wastewater discharge or, in a few cases, by the amount of production. Fees rise as the amount of discharge or production rises.

Because there is a positive correlation (although it is somewhat low and has a high variance) between the

amount of wastewater discharged and sales and because there is a nearly perfect correlation between production and sales, chapter 173-224 WAC should cause the fee-to-sales ratio for large businesses to tend to rise and that for small businesses to tend to fall in comparison with the original fee rule. The fee-to-sales ratios for small and large businesses should move closer together. Thus, the chapter 173-224 WAC fee schedule will be more equitable than the original fee schedule was. However, the fee-to-sales ratios will continue to be higher for small businesses than for large businesses.

Since the permit fees are determined by the department's costs, it is very likely that under both versions of the fee rule, small businesses are more heavily impacted by the fees than large businesses. This occurs because the correlation between the cost of issuing a permit and a company's sales is not high. Sales vary in size more than permit-writing cost and fees do. Thus, the fee-to-sales ratio tends to fall as sales rise. The cost of issuing a permit to certain types of small businesses can easily equal or exceed the cost of issuing one to certain types of large businesses. As long as the permit fees are based on ecology's costs, the impact of the fees cannot be made equal for all sizes of businesses.

Municipal/Domestic Facilities

There are 15 private companies and homeowners associations that hold permits for sewage treatment plants which primarily serve residential customers. Included among these 15 private organizations are mobile home parks, small housing development, and nursing homes. These companies and associations are private organizations, not governments. The permit fees for these facilities are limited by the five cents per month per residential equivalent limit on fees which was imposed by the amendments to chapter 173-223 WAC. Most of these permit holders are small, serving an average of 50 residences each and paying a fee in the \$500 fee category. Two larger permit holders pay fees in the \$1,000 fee category.

The incidence of the permit fees is on the customers, who are overwhelming residential, of these companies and associations. Changes in fees are passed on to these customers through changes in sewer rates. The decline in the fee per residential equivalent is a measure of the impact of the reduced fees on sewer rates. The fees per residential equivalent for these organizations declined by between \$1.24 and \$2.86 as a result of the amendments to chapter 173-223 WAC. Chapter 173-224 WAC has no effect on these facilities, fees.

These are 7 privately-owned permit holders that hold permits for municipal/domestic facilities that do not chiefly serve residential customers. These 7 permit holders consist of four resorts, a truck stop, a church camp, and a church school. These 7 permit holders pay fees in the \$500 and \$1,000 fee categories. Because they are privately-owned businesses that do not chiefly serve residential customers, their fees are not limited by the five cents per month per residential equivalent limit imposed by the amendments to chapter 173-223 WAC. Their fees are also unchanged by chapter 173-224 WAC.

Chapter 173-224 WAC
WASTEWATER DISCHARGE PERMIT FEES

WAC

173-224-015	Purpose.
173-224-020	Applicability.
173-224-030	Definitions.
173-224-040	Permit fee schedule.
173-224-050	Permit fee payments.
173-224-060	Permits issued by other governmental agencies.
173-224-070	Credits.
173-224-080	Transfer of ownership or control.
173-224-090	Small discharger fee reduction.
173-224-100	Administrative appeals to the department.
173-224-110	Deposits.
173-224-120	Past due payments.

NEW SECTION

WAC 173-224-015 **PURPOSE.** Initiative 97 authorizes the department to charge fees to recover expenses incurred in the issuance and administration of state waste discharge and NPDES permits. The purpose of this chapter is to establish a fee system for state waste discharge and NPDES permits issued by the department pursuant to RCW 90.48.160, 90.48.162, or 90.48.260.

NEW SECTION

WAC 173-224-020 **APPLICABILITY.** This chapter applies to all persons holding a state waste discharge or NPDES permit issued by the department pursuant to RCW 90.48.160, 90.48.162 or 90.48.260, including persons holding permits that remain in effect under WAC 173-216-040, 173-220-180(5), or RCW 90.48.200.

NEW SECTION

WAC 173-224-030 **DEFINITIONS.** (1) "Administrative expenses" means those costs associated with issuing and administering permits under RCW 90.48.160, 90.48.162, and 90.48.260. Fees for hazardous waste clean up sites may be adjusted retrospectively based on cost accounting for such sites as provided for under the provisions of Initiative 97.

(2) "Aggregate production" means the mining of sand, gravel, or rock and/or the production of concrete and/or asphalt.

(3) "Aluminum and magnesium reduction mills" means the electrolytic reduction of alumina or magnesium salts to produce aluminum or magnesium metal.

(4) "Animal unit" means one slaughter or feeder steer, 0.7 mature dairy cow, 25 swine or as more fully defined in Appendix B of 40 CFR 122.

(5) "Annual permit fee" means the fee charged by the department of ecology for expenses associated with activities specified in Initiative 97. This annual fee is based on the state's fiscal year (July 1 - June 30).

(6) "bbls/d" means barrels per day of feedstock for petroleum refineries.

(7) "bins/yr" means total standard bins used during the last complete calendar year by a facility in the crop preparing industry. The bins measure approximately 47.5 inches x 47.4 inches x 29.5 inches and hold approximately 870 pounds of fruit.

(8) "Combined industrial waste treatment" means a facility which treats wastewater from more than one industry in any of the following categories: Inorganic chemicals, metal finishing, ore concentration, organic chemicals, or photofinishers.

(9) "Combined sewer overflow (CSO)" means the event during which excess combined sewage flow caused by inflow is discharged from a combined sewer, rather than conveyed to the sewage treatment plant because either the capacity of the treatment plant or the combined sewer is exceeded.

(10) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3) as presently enacted and any subsequent modifications thereto.

(11) "Crop preparing" means the preparation of fruit for wholesale or retail sale by washing and/or other processes in which the skin of the fruit is not broken and in which the interior part of the fruit does not come in director contact with the wastewater.

(12) "cu. yds/yr" means the total production from an aggregate production facility in cubic yards during the most recent completed calendar year.

(13) "Department" means the department of ecology.

(14) "Director" means the director of the department of ecology.

(15) "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.

(16) "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.

(17) "EPA" means the United States Environmental Protection Agency.

(18) "Fin fish rearing and hatching" means the raising of fin fish for fisheries enhancement or sale, by means of hatcheries, net pens, or other confined fish facilities.

(19) "Flavor extraction" means the recovery of flavors or essential oils from vegetable products.

(20) "Food processing" means the preparation of food for human or animal consumption or the preparation of animal byproducts, but exclusive of crop preparing. This category includes but is not limited to fruit and vegetable processing, meat and poultry products processing, dairy products processing, seafood processing, beer and wine production, rendering and animal feed production. Food processing wastewater treatment plants which treat wastes from only one separately permitted food processor and which treat wastes from no other sources, municipal or industrial, shall be treated as one facility for billing purposes.

(21) "GPD" means maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit.

(22) "Gross revenue" means gross receipts from monthly, bimonthly, and/or quarterly user charges for sewer services received from all classes of customers;

Included in these user charges are user charges and fees based on wastewater constituents' strengths and characteristics including high-strength surcharges and charges based on biochemical oxygen demand, suspended solids, oil and grease, toxicants, heavy metals, and flow, etc.

Gross revenue includes charges for receipt and treatment of septic tank wastes, holding tank wastes, chemical toilet wastes, etc.

Gross revenue includes all amounts received from other municipalities for sewage interception, treatment, collection, or disposal.

Gross revenue excludes:

(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.

(23) "Industrial facility" means any facility not included in definition of municipal/domestic facility.

(24) "MGD" means permitted flow expressed in million gallons per day.

(25) "Metal finishing" means the preparation of metal surfaces by means of electroplating, electroless plating, anodizing, coating (chromating, phosphating and coloring), chemical etching and milling, and printed circuit board manufacture.

(26) "Municipal/domestic facility" means a publicly-owned facility treating domestic wastewater together with such industrial wastes as may be present, or a privately-owned facility treating solely domestic wastewater.

(27) "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.

(28) "Noncontact cooling water" means water used for cooling that 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. The noncontact cooling water fee category applies to those facilities which discharge only noncontact cooling water and which have no other wastewater discharges required to be permitted under RCW 90.48.160, 90.48.162, and 90.48.260.

(29) "Nonferrous metals forming" means the manufacturing of semifinished products from pure metal or metal alloys other than iron or steel or of metals not otherwise classified in WAC 173-224-040(1).

(30) "NPDES permit" means a 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.

(31) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatever.

(32) "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.

(33) "Residential equivalent" means 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.

(34) "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.

(35) "State waste discharge permit" means a permit required under chapter 173-216 WAC.

NEW SECTION

WAC 173-224-040 PERMIT FEE SCHEDULE. (1) Industrial facility categories.

(2) Municipal/domestic categories.

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Aluminum Alloys	\$ 5,000.00
Aluminum and Magnesium Reduction Mills	30,000.00
Aluminum Forming	15,000.00
Aggregate Production	
a. Mineral Mining (Sand, Gravel and Rock)	
1. Mining only	500.00
2. Mining with classification (screening and/or crushing)	1,000.00
3. Mining with classification and washing	1,500.00
b. Concrete and/or Asphalt Production	
1. < 20,000 cu. yds/yr.	300.00
2. 20,000 - < 60,000 cu. yds/yr.	500.00
3. 60,000 - < 100,000 cu. yds/yr.	750.00
4. 100,000 - < 150,000 cu. yds/yr.	1,000.00
5. 150,000 - < 200,000 cu. yds/yr.	1,500.00
6. 200,000 - < 250,000 cu. yds/yr.	2,000.00
7. 250,000 cu. yds/yr. and greater	2,500.00
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mineral mining and the concrete and/or asphalt production subcategories.	
Coal Mining and Preparation	
a. < 200,000 tons per year	2,000.00
b. 200,000 - < 500,000 tons per year	4,500.00
c. 500,000 - < 1,000,000 tons per year	8,000.00
d. 1,000,000 tons per year and greater	15,000.00

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Combined Industrial Waste Treatment	
a. < 10,000 gpd	1,000.00
b. 10,000 - < 50,000 gpd	2,500.00
c. 50,000 - < 100,000 gpd	5,000.00
d. 100,000 - < 500,000 gpd	10,000.00
e. 500,000 gpd and greater	15,000.00
Combined Sewer Overflow System	
a. < 50 acres	1,000.00
b. 50 - < 100 acres	2,000.00
c. 100 - < 500 acres	3,000.00
d. 500 acres and greater	4,000.00
Concentrated Animal Feeding Operation	
a. < 100 Animal Units	100.00
b. 100 - < 500 Animal Units	200.00
c. 500 - < 1,000 Animal Units	500.00
d. 1,000 Animal Units and greater	1,000.00
Crop Preparing	
a. 1,000 - < 5,000 bins/yr.	200.00
b. 5,000 - < 10,000 bins/yr.	400.00
c. 10,000 - < 25,000 bins/yr.	800.00
d. 25,000 - < 50,000 bins/yr.	1,800.00
e. 50,000 - < 100,000 bins/yr.	3,000.00
f. 100,000 - < 150,000 bins/yr.	5,000.00
g. 150,000 bins/yr. and greater	6,000.00
Facilities Not Otherwise Classified	
a. < 1,000 gpd	500.00
b. 1,000 - < 10,000 gpd	1,000.00
c. 10,000 - < 50,000 gpd	2,000.00
d. 50,000 - < 100,000 gpd	4,000.00
e. 100,000 - < 500,000 gpd	8,000.00
f. 500,000 - < 1,000,000 gpd	10,000.00
g. 1,000,000 gpd and greater	15,000.00
Fin Fish Rearing & Hatching	1,500.00
Flavor Extraction	
a. Steam Distillation	250.00
b. Solvent Extraction	1,000.00
Food Processing	
a. < 1,000 gpd	500.00
b. 1,000 - < 10,000 gpd	1,000.00
c. 10,000 - < 50,000 gpd	1,500.00
d. 50,000 - < 100,000 gpd	2,000.00
e. 100,000 - < 500,000 gpd	5,000.00
f. 500,000 - < 1,000,000 gpd	10,000.00
g. 1,000,000 gpd and greater	15,000.00
Fuel and Chemical Storage	
a. < 100,000 bbls	1,000.00
b. 100,000 - < 500,000 bbls	2,500.00
c. 500,000 bbls and greater	5,000.00
Hazardous Waste Clean Up Sites	20,000.00
Inorganic Chemicals Manufacturing	
a. Lime Products	2,500.00
b. Fertilizer	3,000.00
c. Peroxide	4,000.00
d. Alkaline Earth Salts	5,000.00
e. Metal Salts	7,000.00
f. Acid Manufacturing	10,000.00
g. Chlor-alkali	20,000.00
Iron and Steel	
a. Foundries	5,000.00
b. Mills	10,000.00
Metal Finishing	
a. < 1,000 gpd	600.00
b. 1,000 - < 10,000 gpd	1,000.00
c. 10,000 - < 50,000 gpd	2,500.00
d. 50,000 - < 100,000 gpd	5,000.00
e. 100,000 - < 500,000 gpd	10,000.00
f. 500,000 gpd and greater	15,000.00

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Noncontact Cooling Water	
a. < 1,000 gpd	100.00
b. 1,000 - < 10,000 gpd	500.00
c. 10,000 - < 50,000 gpd	1,000.00
d. 50,000 - < 100,000 gpd	2,000.00
e. 100,000 - < 1,000,000 gpd	4,000.00
f. 1,000,000 - < 10,000,000 gpd	6,000.00
g. 10,000,000 gpd and greater	8,000.00
Nonferrous Metals Forming	5,000.00
Ore Mining	
a. Ore mining	1,000.00
b. Ore mining with physical concentration processes	2,000.00
c. Ore mining with physical and chemical concentration processes	8,000.00
Organic Chemicals Manufacturing	
a. Fertilizer	5,000.00
b. Aliphatic	10,000.00
c. Aromatic	15,000.00
Petroleum Refining	
a. < 10,000 bbls/d	10,000.00
b. 10,000 - < 50,000 bbls/d	20,000.00
c. 50,000 bbls/d and greater	40,000.00
Photofinishers	
a. < 1,000 gpd	400.00
b. 1,000 gpd and greater	1,000.00
Power and/or Steam Plants	
a. Steam Generation - Nonelectric	2,000.00
b. Hydroelectric	2,000.00
c. Nonfossil Fuel	3,000.00
d. Fossil Fuel	8,000.00
Pulp, Paper and Paper Board	
a. Fiber Recyclers	5,000.00
b. Paper Mills	10,000.00
c. Groundwood Pulp Mills	
1. < 300 tons per day	15,000.00
2. 300 tons per day and greater	30,000.00
d. Chemical Pulp Mills w/o Chlorine Bleaching	40,000.00
e. Chemical Pulp Mills w/Chlorine Bleaching	45,000.00
Shipyards	
\$1,000 per crane, travel lift, small boat lift	
1,000 per drydock under 250 ft in length	
1,000 per graving dock	
1,500 per marine way	
1,500 per scrolift	
2,000 per drydock over 250 ft in length	
The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.	
Solid Waste Sites	
a. Nonputrescible	2,000.00
b. < 50 acres	4,000.00
c. 50 - < 100 acres	8,000.00
d. 100 - < 250 acres	10,000.00
e. 250 acres and greater	15,000.00
Storm Water Only	
a. < 50 acres	1,000.00
b. 50 - < 100 acres	2,000.00
c. 100 - < 500 acres	3,000.00
d. 500 acres and greater	4,000.00
Textile Mills	20,000.00
Timber Products	
a. Log Storage	1,000.00
b. Veneer	2,000.00
c. Sawmills	4,000.00
d. Hardwood, Plywood	7,000.00
e. Wood Preserving	10,000.00

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Vehicle Maintenance, Warehouse and Freight Transfer	
a. < 0.5 acre	1,000.00
b. 0.5 - < 1.0 acre	2,000.00
c. 1.0 acre and greater	3,000.00
Water Plants	
a. Potable water treatment	1,250.00
b. Irrigation water treatment	750.00

(a) Facilities other than those in the aggregate production or shipyard categories which operate within several fee categories or subcategories will be charged for that category or subcategory with the highest fee.

(b) Facilities covered by general permits will be charged 70% of the fee category which they would otherwise belong.

(c) Industries with permitted discharges of 800 gpd or less will pay an annual fee of \$150.00.

(d) The annual permit fee for a water treatment plant that primarily serves residential customers may not exceed three dollars per residential equivalent. The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence which uses nine hundred cubic feet of water per month.

(e) Industrial and commercial permittees may be required to submit a form certifying annual production or unit processes. When required, the form must be completed and returned to the department within thirty days after it is mailed to the permittee by the department.

(3) The form shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

(d) In the case of a sole proprietorship, by the proprietor.

(4) The department may verify the information contained in the form and, if it determines that the permit holder has made false or inaccurate statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

MUNICIPAL/DOMESTIC FACILITIES

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

(i) If the number of residential equivalents that contribute to the domestic wastewater facility is less than 40,000, the fee is sixty cents times the number of residential equivalents;

(ii) If the number of residential equivalents that contribute to the domestic wastewater facility is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;

(iii) If the number of residential equivalents that contribute to the domestic wastewater facility is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;

(iv) If the number of residential equivalents that contribute to the domestic wastewater facility is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;

(v) If the number of residential equivalents that contribute to the domestic wastewater facility is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.

(b) The annual permit fee for each permit issued under RCW 90.48.162 or 90.48.260 that is held by a municipality that holds more than one permit for domestic wastewater facilities 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 or 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 determined as follows:

(i) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is less than 40,000, the fee is sixty cents times the number of residential equivalents;

(ii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;

(iii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;

(iv) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;

(v) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.

(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) Permit fees for privately-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

Permitted Flows	Annual Permit Fee
.1 MGD and Greater	\$2,500.00
.05 MGD to < .1 MGD	1,000.00
.0008 MGD to < .05 MGD	500.00
< .0008 MGD	150.00

(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 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 the 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 (f)(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 for calculating its fiscal year 1990 and 1991 permit fees.

(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. Fees will be calculated in even-numbered fiscal years.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor;

(E) 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, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(iv) Residential equivalent counts calculated for the purpose of determining fees under chapter 173-223 WAC for the March 1 through

June 30, 1989, period will be used to determine permit fees for fiscal years 1990 and 1991.

NEW SECTION

WAC 173-224-050 PERMIT FEE PAYMENTS. (1) Permit fee computation. Computation of permit 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 permit fees based on the permit fee schedule contained in WAC 173-224-040. 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. Permit fees must be received by the department 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. In cases where a new 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) The applicable permit fee shall be paid by check or money order payable to the "Department of Ecology" and mailed to the Waste-water Discharge Permit Fee Program, P. O. Box 5128, Lacey, Washington 98503-5128.

(4) In the event a check is returned due to insufficient funds, the permit fee shall be deemed to be unpaid.

NEW SECTION

WAC 173-224-060 PERMITS ISSUED BY OTHER GOVERNMENTAL AGENCIES. The department shall not charge permit fees for:

(1) Permits issued by a city, town, or municipal corporation under RCW 90.48.165;

(2) Permits issued by the energy facilities site evaluation council under RCW 80.50.071;

(3) Permits administered by the EPA under 33 U.S.C. 1251 et seq. Nothing herein shall restrict the department from charging fees to recover administrative expenses of permits it issues under RCW 90.48.160 for discharges into municipal sewer systems, nor for charging fees to recover administrative expenses related to monitoring compliance with delegated pretreatment programs.

NEW SECTION

WAC 173-224-070 CREDITS. Any public entity engaging in a comprehensive monitoring program may apply for a credit against its permit fee. The full amount of a permit fee shall not be due until after the department made a determination on any such application for credit. The department may establish a due date in accordance with WAC 173-224-050 for an amount equal to the permit fee assessment minus the requested credit. Any balance of permit 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 combined credits granted to all permittees 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 any one calendar 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 credit, the applicant must demonstrate that its comprehensive monitoring produces benefits the general public or 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 applicant;

(5) Requests for credit must be received by the department no later than October 1 during any state fiscal year.

NEW SECTION

WAC 173-224-080 TRANSFER OF OWNERSHIP OR CONTROL. The department shall charge permit fees from the permit holder on record with the department. In the event that ownership or control of a permitted facility or activity is transferred, it shall not be the responsibility of the department to transfer funds between a new and previous permit holder, and the department shall not refund fee charges prospectively in the event of a transfer. Fees paid by a previous permit holder shall be deemed to satisfy the corresponding fee payment requirements of a new permit holder. Agreements between a new and previous permit holder are not binding on the department.

NEW SECTION

WAC 173-224-090 SMALL DISCHARGER FEE REDUCTION. A small business required to pay a permit fee under an industrial facility category may receive a reduction of its permit fee.

(1) To qualify for the fee reduction, a business must:

(a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(c) Have fifty or fewer employees; and

(d) Have annual sales of five hundred thousand dollars or less of the goods or services produced using the processes regulated by the waste discharge permit.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

(d) In the case of a sole proprietorship, by the proprietor.

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to the greater of:

(a) Fifty percent of the permit fee; or (b) two hundred fifty dollars.

(5) If due to special economic circumstances a fee reduction allowed under subsection (4) of this section would nevertheless still impose an extreme economic 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 a permit fee be reduced below one percent of the average annual gross sales of the goods or services produced using the process regulated by the waste discharge permit. The average annual gross sales is calculated using the previous three calendar years' gross sales.

NEW SECTION

WAC 173-224-100 ADMINISTRATIVE APPEALS TO THE DEPARTMENT. Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the department 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 Initiative 97, and specific actions that he/she is requesting that are consistent with those requirements. The department shall either issue a revised determination or a statement upholding the original determination. A revised determination shall be consistent with the requirements of Initiative 97.

NEW SECTION

WAC 173-224-110 DEPOSITS. The department shall deposit permit fee payments in the water quality permit account in the state treasury. Funds collected shall not be available for use by the department until appropriated by the legislature.

NEW SECTION

WAC 173-224-120 PAST DUE PAYMENTS. Any person who, by the effective date of this section, has not paid the fees and other amounts due under chapters 173-222 and 173-223 WAC shall continue to be obligated to pay such fees and amounts.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 173-223-015 PURPOSE AND AUTHORITY.
 WAC 173-223-020 APPLICABILITY.
 WAC 173-223-030 DEFINITIONS.
 WAC 173-223-040 PERMIT FEE SCHEDULE.
 WAC 173-223-050 PERMIT FEE PAYMENTS.
 WAC 173-223-060 PERMITS ISSUED BY OTHER GOVERNMENTAL AGENCIES.
 WAC 173-223-070 CREDITS.
 WAC 173-223-080 TRANSFER OF OWNERSHIP OR CONTROL.
 WAC 173-223-090 ADMINISTRATIVE APPEALS TO THE DIRECTOR.
 WAC 173-223-100 DEPOSITS.
 WAC 173-223-110 PAST DUE PAYMENTS.

WSR 89-07-089**PROPOSED RULES****COMMITTEE FOR DEFERRED COMPENSATION**

[Filed March 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Committee for Deferred Compensation intends to adopt, amend, or repeal rules concerning the amending of WAC 154-120-015;

that the agency will at 9:00 a.m., Thursday, April 27, 1989, in the Capitol Campus, House Office Building, Hearing Room "A", conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 41.04.640.

The specific statute these rules are intended to implement is RCW 41.04.610 through 41.04.635.

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

Dated: March 21, 1989

By: Lee Dreisbach
Director**STATEMENT OF PURPOSE**

Title: Dependent care assistance salary reduction plan.
 Description of Purpose: To comply with the 1988 Technical and Miscellaneous Revenue Act.

Statutory Authority: RCW 41.04.640.

Specific Statute Rule is Intended to Implement: RCW 41.04.610 through 41.04.635.

Summary of Rule: The rule provides that a state employee may elect to forgo a portion of salary or wages by entering a salary reduction agreement with the state to be used to reimburse dependent care expenses which allow the employee to be gainfully employed. The rule specifies the procedures for participating in the plan and the benefits and reductions which will result, including the effects on federal income tax withholding, Social Security taxes, and the risk of forfeiture of any amount not used to reimburse dependent care expenses.

Reasons Supporting Proposed Action: In order to comply with federal regulations.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Committee for Deferred Compensation, Lee Dreisbach, Director; and Mary Bush, Program Manager.

Person or Organization Proposing Rule: Committee for Deferred Compensation, governmental.

Agency Comments: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Yes; changes are necessitated by federal tax laws and regulations (TAMRA, 1988).

Small Business Economic Impact Statement: Not required, the regulations have no effect on small businesses.

AMENDATORY SECTION (Amending Resolution No. 88-2, filed 5/11/88)

WAC 154-120-015 DEPENDENT(S). "Dependent(s)" means:

(1) An individual with respect to whom the participant is entitled to a dependency exemption under Internal Revenue Code section 151(c) and who is:

(a) Under the age of ((fifteen)) thirteen; or

(b) Physically or mentally incapable of self-care (regardless of age);

or

(2) The spouse of a participant, if such spouse is physically or mentally incapable of self-care.

WSR 89-07-090**PROPOSED RULES****COMMITTEE FOR DEFERRED COMPENSATION**

[Filed March 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Committee for Deferred Compensation intends to adopt, amend, or repeal rules concerning the amending of WAC 154-12-010, 154-12-020, 154-12-030, 154-12-040, 154-12-050, 154-12-070, 154-12-080, 154-12-090, 154-12-110, 154-24-010, 154-32-010, 154-32-020 and 154-68-020;

adding WAC 154-04-065, 154-12-075, 154-12-085, 154-12-086, 154-12-087 and 154-12-107; and repealing WAC 154-04-040, 154-04-060, 154-04-090, 154-12-060, 154-12-100, 154-16-010, 154-16-020, 154-20-010 and 154-20-020;

that the agency will at 9:00 a.m., Thursday, April 27, 1989, in the Capitol Campus, House Office Building, Hearing Room "A", conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 41.04 RCW.

The specific statute these rules are intended to implement is RCW 41.04.250 and 41.04.260.

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

Dated: March 21, 1989

By: Lee Dreisbach
Director

STATEMENT OF PURPOSE

Description of Purpose: To comply with the 1988 Technical and Miscellaneous Revenue Act; to increase the number of allowable contract changes per year from two changes to four changes; to establish a minimum dollar amount change requirement of ten dollars per month; and to authorize periodic liquidations of mutual fund shares into the savings pool to fund distributions to participants.

Statutory Authority: RCW 41.04.260.

Specific Statute Rule is Intended to Implement: RCW 41.04.250 and 41.04.260.

Summary of Rule: The rule provides that all full-time, part-time and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state to enter into a contract with the committee to defer a portion of that employee's salary not to exceed the amount allowable under 26 U.S.C. Section 457 and authorizes the committee to invest such deferred amounts in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

Reasons Supporting Proposed Action: In order to comply with federal regulations and to enhance the program.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Committee for Deferred Compensation, Lee Dreisbach, Director; and Mary Bush, Program Manager.

Person or Organization Proposing Rule: Committee for Deferred Compensation, governmental.

Agency Comments—Objectives of Revision: Conform plan to Technical and Miscellaneous Revenue Act of 1988. The age 70 1/2 mandatory distribution rule of TRA 1986 (presently reflected in WAC 154-12-110) was scheduled to come into effect on January 1, 1989, but is no longer required due to amendments in

TAMRA of 1988. Distribution is not required until separation from service. TAMRA 1988 also further revised minimum distribution rules. The IRS has indicated that a favorable ruling (which the state auditor recommended that the committee seek) can be issued based upon the regulations in the form proposed; increase number of investment changes from two to four per year and establish a minimum \$10.00 per month change amount in WAC 154-12-050; and specify in WAC 154-12-040 that the committee will liquidate funds necessary to fund payout six months at a time. Current practice is to encourage participants to maintain such a savings pool balance for this purpose. However, seeing that this is done requires staff-participant correspondence and causes potential delay in payments. The proposed provision that the staff make periodic transfers to savings when necessary will avoid the necessity for such correspondence, and the delays and attendant costs.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Yes, changes other than those to WAC 154-12-040 and 154-12-050 are necessitated by federal taxes laws and regulations (TAMRA 1988).

Small Business Economic Impact Statement: Not required, the regulations have no effect on small businesses.

NEW SECTION

WAC 154-04-065 SEPARATION FROM SERVICE. "Separation (or separates) from service" means "separation from service" as that term is interpreted for purposes of Section 402 (e)(4)(A)(iii) of the Internal Revenue Code and refers to the severance of the participant's employment with the employer. A participant will be deemed to have severed his or her employment as of the date of his or her last payroll.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 154-04-040 NORMAL RETIREMENT AGE.
WAC 154-04-060 TERMINATION OF SERVICES.
WAC 154-04-090 INCLUDIBLE COMPENSATION.

AMENDATORY SECTION (Amending Order 83-2, filed 6/10/83)

WAC 154-12-010 ENROLLMENT. Enrollment in the plan.

(1) An eligible employee may become a participant by executing a participation agreement. Compensation will be deferred for any calendar month only if a participation agreement providing for such deferral is executed by the participant and approved by the committee or its designee before the beginning of such month.

(2) In signing the participation agreement, the participant elects to participate in this plan and consents to the employer deferring the amount specified in the participation agreement from the participant's gross compensation for each pay period. The dollar amount deferred ("deferred compensation") must equal at least thirty dollars per month. Once a participant has specified an amount of deferral, such specification shall continue unless changed or revoked pursuant to WAC 154-12-050 or ((154-12-060)) 154-12-070 of this plan. Participants must have at least one monthly deferral.

AMENDATORY SECTION (Amending Order 88-1, filed 5/25/88)

WAC 154-12-020 DEFERRAL LIMITATION((S)). (1) Except as provided in WAC 154-12-030, relating to catch-up, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of (((1) \$7,500)) seven thousand five hundred dollars or ((2) 33 1/3%) thirty-three and one-third percent of the participant's includible compensation, each reduced:

(a) ~~By any amount excludable from the participant's gross income for that taxable year under Section 403(b) of the Internal Revenue Code (on account of participating employer contributions. In the case of a person who participates in more than one deferred compensation plan governed by Section 457 of the Internal Revenue Code, the limitations set forth shall apply to all such plans considered together for the taxable year, or as may be otherwise provided in Section 457 of the Internal Revenue Code or any successor statute of similar import.); and~~

(b) ~~By any amount:~~

(i) ~~Excluded from gross income under Section 402 (a)(8) or 402 (h)(1)(B) of the Internal Revenue Code (relating to a participant's elective deferrals to simplified employee pensions) for that taxable year;~~

(ii) ~~For which a deduction is allowable for that taxable year by reason of a contribution to an organization described in Section 501 (c)(18) of the Internal Revenue Code (relating to pension trusts created before June 25, 1959, forming part of a plan for payment of benefits under a pension plan funded only by contributions of employees); or~~

(iii) ~~Which is deferred by a participant under Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangement) during that taxable year; and~~

(c) ~~By any amount the participant contributes to any other Section 457 of the Internal Revenue Code (relating to deferred compensation plan(s)) during the taxable year.~~

(2) "Includible compensation" for purposes of this section means includible compensation as defined in Section 457 (e)(5) of the Internal Revenue Code and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws. Includible compensation for a taxable year includes only compensation from the employer that is attributable to services performed for the employer and that is includible in the participant's gross income for the taxable year for federal income tax purposes. Accordingly, a participant's includible compensation for a taxable year does not include an amount payable by the employer that is excludable from the employee's gross income under:

(a) Section 457 of the Internal Revenue Code;

(b) Section 403(b) of the Internal Revenue Code (relating to annuity contracts purchased by Section 501 (c)(3) of the Internal Revenue Code, relating to organizations or public schools);

(c) Section 105(d) of the Internal Revenue Code (relating to wage continuation plans);

(d) Section 911 of the Internal Revenue Code (relating to citizens or residents of the United States living abroad);

(e) Section 402 (a)(8) or 402 (h)(1)(B) of the Internal Revenue Code (relating to simplified employee pensions);

(f) Section 501 (c)(18) of the Internal Revenue Code (relating to certain pension trusts); or

(g) Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangements).

(3) In computing includible compensation, total gross compensation as shown on state earnings statements must be reduced by:

(a) Section 414(h) of the Internal Revenue Code, before tax contributions to retirement plans (including those described in RCW 41.04.440, 41.04.445, and 41.04.450); and

(b) Any Section 125 of the Internal Revenue Code, relating to contributions to cafeteria plans (including those which include such items as dependent care salary reduction plans) before excluding the items listed in subsection (2)(a) through (g) of this section.

AMENDATORY SECTION (Amending Order 88-1, filed 5/25/88)

WAC 154-12-030 CATCH-UP PROVISION. For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of:

(1) (\$15,000) Fifteen thousand dollars for the taxable year, reduced (by any amount excludable from the participant's gross income for the taxable year under Section 403(b) on account of contributions made by your employer) in the same manner as the seven thousand five hundred dollars limitation is reduced in WAC 154-12-020, or

(2) The sum of:

(a) The limitations established for purposes of WAC 154-12-020 of the plan for the taxable year (determined without regard to this section), plus

(b) So much of the limitation established under WAC 154-12-020 for taxable years before the taxable year as has not theretofore been

used under WAC 154-12-020 or 154-12-030 (or as may be otherwise provided in Section 457 of the Internal Revenue Code or any successor statute of similar import)). A prior taxable year shall be taken into account only if:

(i) It begins after December 31, 1978;

(ii) The participant was eligible to participate in the plan during all or any portion of the taxable year, and;

(iii) Compensation deferred (if any) under the plan during the taxable year was subject to a maximum limitation (as established under WAC 154-12-020).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity. In no event can the participant elect to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

"Normal retirement age," as used in chapters 154-01 through 154-68 WAC, means the range of ages:

Ending not later than age seventy and one-half; and

Beginning not earlier than the earliest age at which the participant has the right to retire under a state authorized pension for which the participant is eligible without consent of the state and under which the participant will receive immediate retirement benefits without actuarial adjustment due to retirement prior to some later specified age in a state authorized pension plan.

Provided, however, if the participant elects to defer amounts in excess of the maximum deferral allowed by WAC 154-12-020 but within the limited catch-up permitted by this section, the participant thereby establishes a date (i.e., a specific "normal retirement age"):

Before which date, amounts deferred can be paid to the participant only under the unforeseeable emergency exception in WAC 154-24-010 (even if the participant separates from service); and

After which date, if the participant separates from service or has separated from service, amounts deferred must be paid out as described in WAC 154-12-090 (1)(b).

This catch-up provision may not be used in the year in which the participant attains age seventy and one-half, and may not be used in any year thereafter.

AMENDATORY SECTION (Amending Order 82-3, filed 6/11/82)

WAC 154-12-040 COMMITTEE MAY DISALLOW DEFERRAL. The participant acknowledges the right of the committee (~~or the administrator~~) to disallow deferral of compensation under the plan in excess of the limitations (~~(stated above)~~) in WAC 154-12-020 and 154-12-030. However, (~~(neither)~~) the committee (~~(nor the administrator)~~) shall have (~~(any)~~) no duty to assure that amounts deferred are in compliance with such limitations. (~~In the case of a person who participates in more than one deferred compensation plan governed by Section 457 of the Internal Revenue Code, the limitations set forth in WAC 154-12-020 and 154-12-030 shall apply to all such plans considered together.~~)

AMENDATORY SECTION (Amending Order 87-1, filed 8/26/87)

WAC 154-12-050 MODIFICATION OF DEFERRAL. A participant may (~~(modify)~~) change his/her deferral (~~(no)~~) not more (~~(frequently)~~) than (~~(twice)~~) four times in any calendar year (~~(unless the committee by specific action authorizes a special additional open change period. Such change may be in the decreasing of)~~). Changes in the amount of deferral must equal at least ten dollars or more per month.

An increase (or an increase and a change in investment option(s) which are effective the same date) shall not be counted as a change. Only a decrease in the amount of deferral (specified and/or the investment mode pursuant to WAC 154-12-010(2). An increase in the amount of deferral would not count as a change. A change in the investment mode may apply to the redirection of amounts previously deferred as well as current deferrals. Such change or changes increasing or decreasing the amount of the deferral), a transfer, or a change in investment option(s) not accompanied by an increase, shall be counted as a change.

Any combination of a decrease, a transfer, or a change in investment option(s) effective the same date, shall be considered one change.

A change (whether counted as such or not) shall be effective ((as to)) for any calendar month only if the participant signs a new participation agreement ((is executed by the participant)) and it is approved by the committee or its designee before the beginning of ((such)) that calendar month. All participation agreements indicating changes in

~~((the)) investment ((mode)) option(s) must be filed with the committee ((by completing the proper forms)) no later than fifteen days prior to the established pay date((s)) for which the change will occur.~~

~~The committee reserves the right to defer the effective date of any ((such)) change ((or changes)). During the payout process, the committee may periodically liquidate mutual fund shares in amounts necessary to meet distribution requirements for a six-month period.~~

AMENDATORY SECTION (Amending Order 87-1, filed 8/26/87)

WAC 154-12-070 SUSPENSION AND REINSTATEMENT OF DEFERRALS. SUSPENSION. A participant may at any time direct that deferrals under the participant's participation agreement cease by completing the proper form and filing it with the committee no later than the last day of the payroll period prior to the payroll period during which the deferrals are to cease; however, accrued benefits shall only be paid as provided in WAC 154-12-080 through 154-12-110.

REINSTATEMENT. A participant who has directed the cessation of deferrals ~~((under the participant's participation agreement as set forth in WAC 154-12-060;))~~ may resume deferrals for any calendar month commencing no sooner than six months after such deferrals ceased by executing a new participation agreement to defer compensation. The six-month waiting period ~~((would)) shall not apply to ((those)) participants who are on leave without pay as ((pursuant to)) discussed in WAC 154-28-010.~~

NEW SECTION

WAC 154-12-075 INVESTMENT OPTIONS. Each participant shall designate on his/her participation agreement the investment option(s) in which he/she wishes to have funds invested. The investment option(s) shall be selected from those options made available for this purpose from time to time by the committee, in its sole discretion.

The committee may make available as options for investment:

(1) A fixed rate investment or pool of investments including deposits with a credit union, savings and loan association, mutual savings bank and fixed annuities;

(2) Specified mutual fund shares, shares of an investment company, or variable annuities; or

(3) Fixed or variable life insurance, or other options permitted by law and selected by the committee. In the event that a selected investment option experiences a loss, the participant's benefits payable hereunder shall likewise reflect a loss, rather than income, for the period.

Nothing in this section shall require the employer to invest any amount in the investments selected and whether or not the employer so invests, no participant shall have any right, title, or interest in the amounts deferred or assets so invested.

AMENDATORY SECTION (Amending Order 82-3, filed 6/11/82)

WAC 154-12-080 DESIGNATION OF BENEFICIARIES. Each participant shall have the right to designate a beneficiary or beneficiaries to receive any benefit to which said participant may be entitled in the event of death prior to the complete distribution of benefits. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change his/her beneficiary designation at any time by filing a change of beneficiary form with the committee. A participant may also change his/her beneficiary designation by completing the beneficiary designation portion of a participation agreement form.

The participant may name:

(1) A designated organization or person (including without limitation his/her unborn or later adopted children). If unborn or later adopted children are to be included, the designation must so indicate. The date of birth must be furnished for any living person who is named and who is under the age of eighteen.

(2) His or her estate;

(3) A trust which is in existence, or which is to be established under the participant's last will. For an existing trust, the participant must provide the name of the trust and the date it was established. Persons or institutions who act, or who the participant intends to act in the future, such as an executor, trustee, or guardian may not be named unless the date of the document establishing the authority of the person is provided and the words "or successor" are made a part of the designation.

The participant may name contingent beneficiaries in addition to primary beneficiaries.

NEW SECTION

WAC 154-12-085 DISTRIBUTION TO PARTICIPANT AFTER SEPARATION FROM SERVICE. After separation from service, an amount equal to the sum of all compensation theretofore deferred under the plan, together with investment income or loss thereon to the date of payment, calculated in accordance with WAC 154-12-107 shall be paid in one or more installments as elected by the participant pursuant to WAC 154-12-090.

NEW SECTION

WAC 154-12-086 DISTRIBUTION IN THE EVENT OF DEATH OF PARTICIPANT. Should the participant die at any time after separation from service an amount shall be paid to the beneficiary or beneficiaries designated by the participant pursuant to WAC 154-12-080 which is equal to the sum of all compensation theretofore deferred under the plan, together with investment income or loss thereon to the date of payment, calculated in accordance with WAC 154-12-107. The amount shall be paid out as provided in WAC 154-12-080 through 154-12-110. If no beneficiary is designated as provided in the participation agreement, or if the designated beneficiary does not survive by a period of thirty days, then a lump sum or series of payments shall be paid, in accordance with WAC 154-12-080 through 154-12-110, to the surviving spouse, or if none, a lump sum shall be paid to the estate of the participant.

NEW SECTION

WAC 154-12-087 DISTRIBUTION IN EVENT OF DEATH OF BENEFICIARY. In the event a beneficiary survives the participant by thirty days and becomes entitled to receive benefits, the remaining amount deferred shall become payable to the beneficiary's estate on the twenty-fifth day of the second month following the beneficiary's death, unless benefits are being paid in the form of an annuity, in which case the disposition of the remaining amount shall be determined by the annuity contract. Such annuity contracts shall be issued pursuant to the rules set forth in WAC 154-12-110.

AMENDATORY SECTION (Amending Order 83-2, filed 6/10/83)

WAC 154-12-090 ELECTIONS REGARDING DISTRIBUTION. Each participant (or in the event of death, ~~((the participant's)) each beneficiary other than an estate ((may elect the payout method))~~ shall elect when his/her payout will begin and the payout period ~~((for each event stated in chapters 154-16 and 154-20 WAC. The payout period must be selected prior to the time any amounts become payable in the plan, and must be set to a fixed or determinable future time. Such election once made is irrevocable. If such election is made, the payout method from among options provided by rule by the committee need not be selected, or if selected, may be changed until the date not later than sixty days before the date upon which payments are to commence. In the absence of such election a payout option of one hundred twenty monthly installments, or such lesser number of monthly installments as is required by treasury regulations promulgated from time to time under Section 457 of the Internal Revenue Code or any successor statute of similar import shall be automatically invoked by the committee. PROVIDED, That the mode of payment of a deceased participant's benefit shall be determined by the committee within the limitations of WAC 154-16-020 and 154-20-020)).~~

(1) Election regarding time of payment. The election regarding the time when payment will begin shall be made when a participant separates from service.

Once made, the election regarding when payout will begin is irrevocable as to the participant or beneficiary making the election. The election regarding when payment will begin:

(a) By a participant who separates from service other than by reason of death, and who has not used catch-up, must be made not later than the earlier of:

(i) Sixty days after separation from service; or

(ii) January 31st following the year of separation; payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the committee on forms provided for that purpose, and payment must begin within the time prescribed by WAC 154-12-110;

(b) By a participant who separates from service other than by reason of death and who has used the catch-up provision in WAC 154-12-030, will be deemed to have been made by use of catch-up; payment will begin on the central payroll date nearest the twenty-fifth day

of the month following the month in which he/she separates from service having reached normal retirement age.

(c) By a beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must be made not later than the earlier of:

(i) Sixty days after the participant's death; or

(ii) The January 31st following the year in which the participant died; payment may begin thirty days after an election is filed with the committee on forms provided for that purpose, and payment must begin within the time prescribed by WAC 154-12-110.

(2) Election regarding method of payment. The participant (beneficiary) who makes an election regarding the date payment will begin, may also elect the period over which payments will be made. The payout period election may be made either at the time he/she elects a beginning date for payout or at any time not later than sixty days prior to the date payout is to begin. Once having made this election, the participant (or beneficiary, other than an organization, estate, or trust) may change the payout period election not later than sixty days prior to the date payout is to begin. Such a beneficiary may also make this election where the participant was already receiving payments but, as provided in WAC 154-12-110 (3)(a), must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the payout period election not later than sixty days after the death of the participant. Provided, if the participant was receiving payout in the form of an annuity contract, then the successor's right shall be limited by the terms of that contract.

(3) How elections are made. A participant or beneficiary makes elections allowed under this section by completing and filing applicable payment request forms with the committee. As described in subsection (1)(b) of this section, a participant who uses the catch-up provision is deemed to have made an irrevocable election regarding the time payment will begin.

(4) Consequences in absence of a timely election regarding method of payment. Absent a timely election regarding when payout is to begin, payout will begin on the central payroll date nearest the twenty-fifth day of the month following the month in which the election period ends, and will be made, in a lump sum if the amounts deferred as of the end of the election period are less than twenty-five thousand dollars or, if the amounts deferred are twenty-five thousand dollars or more, in equal monthly installments over a period of one hundred twenty months or such lesser period:

(a) As may be necessary under the minimum payout requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(b) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

(5) Consequences in absence of a timely election regarding method of payment. In the absence of a timely election regarding the period of time over which payment will be made, payment will be made in the manner described in subsection (4) of this section.

(6) Payment to an organization, estate, or trust. Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 154-12-110(3).

NEW SECTION

WAC 154-12-107 AMOUNTS DEFERRED REDUCED BY COSTS. For purposes of determining the amount of benefits payable to a participant or the participant's beneficiary or beneficiaries under the plan, the amounts deferred shall be reduced by costs of the plan paid from the deferred compensation revolving fund pursuant to WAC 154-08-050, and any investment income which would otherwise have been earned thereon and any amounts paid previously, including any amounts paid pursuant to WAC 154-24-010 by reason of an unforeseeable emergency.

AMENDATORY SECTION (Amending Order 88-1, filed 5/25/88)

WAC 154-12-110 DISTRIBUTION OF DEFERRALS. ((Dis-tribution of deferrals:

(1) Notwithstanding anything in this plan to the contrary, payment of amounts deferred shall commence not later than the latest of (a) sixty days after the close of the plan year in which the participant attains (or would have attained) normal retirement age; (b) sixty days

after the close of the plan year in which the participant separates from service with the employer.

(2) Amounts deferred under this plan shall be paid according to options provided by rule by the committee pursuant to WAC 154-12-090, but such options shall provide payment of amounts deferred primarily for the benefit of participants (or former participants). Benefits paid to a beneficiary are not to be more than incidental, within the meaning of Section 1.457-2 (i)(2).

(3) Notwithstanding anything in this plan to the contrary, once payments have commenced to the participant, in accordance with WAC 154-12-090, said participant may not elect to accelerate the payment schedule. However, upon the occurrence of an unforeseeable emergency (as defined in WAC 154-24-010), the participant may accelerate the amount remaining payable in the amount not exceeding that described in WAC 154-24-010.

(4) The entire interest of the participant will be distributed, not later than the April 1st following the calendar year in which the participant attains age seventy and one-half ("required beginning date"), in equal or substantially equal amounts over (a) the life of the participant, (b) the lives of the participant and his beneficiary, (c) a period not extending beyond the life expectancy of the participant, (d) a period not extending beyond the joint and last survivor expectancy of the participant and the beneficiary, or (e) a combination of the foregoing.

(5) Notwithstanding any other provision of this plan, distributions shall be subject to the following limitations:

(a) If distribution first commences under subsection (4) of this section, WAC 154-16-010, 154-16-020, or 154-20-010 such distribution shall be made in a form under which:

(i) The amount distributed in each year commencing with the required beginning date must be either (A) a level amount determined by applying the participant's entire interest to the purchase of an annuity contract commencing payments at least annually on or before the required beginning date over a period consistent with subsection (4) of this section, or (B) at least equal to the quotient obtained by dividing the participant's then remaining interest by the life expectancy of the participant or the joint and last survivor expectancy of the participant and the beneficiary, as relevant;

(ii) If provision is made for the payment of a portion of the benefits to a beneficiary, the amount payable to the participant actuarially must exceed two-thirds of the maximum amount payable to the participant had no provision been made for payments to the beneficiary (determined as of the commencement of the distribution); and

(iii) Any amount not distributed to the participant during his life will be distributed after the death of the participant at least as being used under section 6.7 (a)(ii) as of the date of his death.

(b) If distribution first commences after the participant's death under WAC 154-16-020 the participant's entire interest must be distributed over a period not to exceed (i) the beneficiary's life or life expectancy, if the beneficiary is the participant's surviving spouse and if distribution commences on or before the date the deceased participant would have attained age seventy and one-half, (ii) the lesser of fifteen years or the life expectancy of the beneficiary, if the beneficiary is not the participant's surviving spouse and if distributions commence within one year of the date of the participant's death in equal or substantially equal payments, or (iii) the lesser of five years from the date of the participant's death or the beneficiary's life expectancy, if (i) and (ii) of this subsection are inapplicable. For purposes of this subsection, any amount paid to a child of the participant will be treated as if it had been paid to the surviving spouse if the remainder of the interest becomes payable to the surviving spouse when the child reaches the age of majority.

(c) For purposes of (a) and (b) of this subsection, life expectancies will be computed by use of the expected return multiples in Treasury Regulations 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company. For purposes of (a)(i) and (b)(i) of this subsection, the life expectancy of the participant and the participant's surviving spouse (if such spouse is the beneficiary) may be recalculated annually. (1) General rule. Assuming a timely election is allowed and has been made pursuant to WAC 154-12-090, payment will be made in at least annual, substantially nonincreasing amounts. Payments are also subject to the limitations in subsections (2) through (5) of this section.

(2) Distribution to participant. A participant must either:

(a) Receive his/her entire interest prior to the latest of:

(i) The March 1st immediately following the close of the plan year in which the participant attains age seventy and one-half; or

(ii) The March 1st immediately following the close of the plan year in which the participant separates from service with the employer; or

(b) Begin receiving his/her interest not later than the time specified in (a) of this subsection and receive it over a period not longer than either:

(i) The life of the participant;
(ii) The life of the participant and a beneficiary designated by the participant;

(iii) The life expectancy of the participant; or
(iv) The life expectancy of the participant and a designated beneficiary.

However, if the participant has used the catch-up provision in WAC 154-12-030, the date before which the participant must receive, or begin to receive payment is the March 1st immediately following the year established by use of catch-up as his/her normal retirement age as defined in WAC 154-12-030.

Payment must be sufficiently rapid to satisfy the requirements of Section 457 (d)(2)(B)(i)(I) and Section 401 (a)(9)(G) of the Internal Revenue Code. Provided, that until tables are issued by the Secretary of the Treasury, if provision is made for the payment of a portion of the benefits to a beneficiary, the amount payable to the participant actuarially must exceed two-thirds of the maximum amount payable to the participant had no provision been made for payments to the beneficiary (determined as of the commencement of the distribution).

Once payments to a participant begin, the participant may accelerate the payment schedule only in the event of an unforeseeable emergency (and subject to the provisions of WAC 154-24-010 regarding such emergencies).

(3) Distribution to beneficiaries.

(a) When distribution begins prior to the participant's death, then payout must be made at least as rapidly as it was being made to the participant. When the beneficiary is an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death.

(b) When distribution does not begin prior to the participant's death, and is to be made:

(i) To an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death;

(ii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, not to begin within one year of the participant's death, then payment must be made within five years of the participant's death;

(iii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, beginning within one year of the participant's death, then payment must be made within fifteen years of the participant's death;

(iv) To the participant's surviving spouse, whether as designated beneficiary, or by default, then payment must begin prior to the March 1st immediately following the later of the close of the plan year in which the participant would have attained age seventy and one-half or, if later, the year in which the participant separated from service, and payment may be made over the lifetime of the surviving spouse or over a period not longer than the life expectancy of the surviving spouse. Provided, if the participant used the catch-up provision in WAC 154-12-030, then payment must begin prior to the March 1st immediately following the year in which the participant attained (or would have attained) normal retirement age as defined in WAC 154-12-030.

(4) For purposes of this section, life expectancies will be computed by use of the expected return multiples in Treasury Department Regulation 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company. Where payment is being made over the joint lives of the participant and the participant's surviving spouse, the life expectancy of the participant and the participant's surviving spouse may be recalculated annually.

(5) Notwithstanding anything in this plan to the contrary, distributions from the plan will be made in compliance with the minimum distribution rules of Section 457 (d)(2) of the Internal Revenue Code, and in compliance with Treasury Department Regulations issued under Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 154-12-060 REVOCATION OF DEFERRAL.

WAC 154-12-100 INVESTMENT MODE ELECTION.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 154-16-010 NORMAL RETIREMENT.

WAC 154-16-020 UPON DEATH OF PARTICIPANT.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 154-20-010 TERMINATION OF SERVICES.

WAC 154-20-020 DEATH OF PARTICIPANT.

AMENDATORY SECTION (Amending Order 88-1, filed 5/25/88)

WAC 154-24-010 UNFORESEEABLE EMERGENCY. Notwithstanding any other provisions ((herein)) in plan chapters 154-01 through 154-68 WAC, in the event of an unforeseeable emergency, a participant may request the committee to pay benefits. If the application for payment is approved by the committee, payment will be made within sixty days following such an approval. Benefits to be paid shall be limited strictly to that amount reasonably necessary to satisfy emergency need. ((Any remaining benefits shall be paid in accordance with chapters 154-16 and 154-20 WAC of the plan.))

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

(1) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,

(2) Loss of the participant's property due to casualty, or

(3) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment shall not be made to the extent that such hardship is or may be relieved ((+)) (a) through reimbursement or compensation by insurance or otherwise; ((+)) (b) by liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or ((+)) (c) by cessation of deferrals under the plan. Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

AMENDATORY SECTION (Amending Order 82-3, filed 6/11/82)

WAC 154-32-010 TERMINATION OF PLAN. The employer or the committee may at any time terminate this plan. Upon such termination, benefits will be paid to each participant pursuant to chapter ((154-20)) 154-12 WAC of the plan. Each participant's full compensation on a nondeferred basis will thereupon be restored.

AMENDATORY SECTION (Amending Order 82-3, filed 6/11/82)

WAC 154-32-020 AMENDMENT OF PLAN. The committee may also amend the provisions of this plan at any time: PROVIDED, HOWEVER, That no amendment shall affect the rights of participants or their beneficiaries to the receipt of payment of benefits, to the extent of any compensation deferred before the time of the amendment and investment income or loss thereon accrued to the date of the amendment, calculated in accordance with WAC ((154-12-010)) 154-12-107.

AMENDATORY SECTION (Amending Order 83-2, filed 6/10/83)

WAC 154-68-020 PLAN TO CONFORM TO FEDERAL LAW. This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code, and ((Section)) Treasury Department Regulation 1.457-2(a), and shall be interpreted ((consistent with such sections and all regulations promulgated thereunder)) accordingly.

WSR 89-07-091
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed March 22, 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 308-124H-030 Filing of courses.
 Rep WAC 308-124D-060 Broker supervision of affiliated licensees.
 Rep WAC 308-124D-065 Broker and affiliated licensees—Written relationship agreement;

that the agency will at 10:30 a.m., Monday, May 1, 1989, in the Department of Licensing, 1300 Quince Street, First Floor Examining Room, 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.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1989.

Dated: March 22, 1989

By: Linda M. Moran
 Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule Section and Chapter: WAC 308-124H-030(6) Filing of courses; 308-124D-060 Broker supervision of affiliated licensees; and 308-124D-065 Broker and affiliated licensees—Written relationship agreement.

Statutory Authority and Specific Statute that the Rules are Intended to Implement: RCW 18.85.040.

Summary of Rules and Reasons Supporting the Rules: WAC 308-124H-030(6) is necessary to allow for shorter clock hour classes; and the repealing of WAC 308-124D-060 and 308-124D-065 is necessary because of practical problems with compliance by the industry.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Mary G. Faulk, Director, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, Washington 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 These Rules: Department of Licensing.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: None.

These rules are 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 these rules would have on real estate brokers and salespersons and schools offering real estate courses. Real estate brokers and salespersons are 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 these proposed rules may have is intended to fall equally on all real estate brokers and salespersons.

AMENDATORY SECTION (Amending Order PM 811, filed 12/7/88)

WAC 308-124H-030 FILING OF COURSES. Each proprietary school, individual, association or agency seeking approval of courses, shall apply to the department on a prescribed form. Courses shall meet the following requirements:

(1) Each course shall include at least one text book that is in general circulation or other instructional materials approved by the commission.

(2) Each course must add to the practical knowledge of the real estate practitioner.

(3) Each course must be supervised or under the direction of at least one natural person who meets the qualifications of WAC 308-124H-060.

(4) Each course must deal with substantive real estate subject matter such as, but not limited to, legal aspects of real estate, real estate principles and practices, real estate finance, appraising, deposit receipts and earnest money agreements. General sales motivation courses will not qualify.

(5) Each course must require a comprehensive examination or examinations and a final grade.

(6) Each course must require a minimum of ~~((seven and one-half))~~ three hours of classroom work for the student; a classroom hour is a period of fifty minutes of actual classroom or workshop instruction. The time allotted for examinations shall not be applicable toward the minimum hours of course study.

(7) All course content materials must be accurate and current.

REPEALER

The following sections of the Washington Administrative Code is repealed:

WAC 308-124D-060 BROKER SUPERVISION OF AFFILIATED LICENSEES

WAC 308-124D-065 BROKER AND AFFILIATED LICENSEES—WRITTEN RELATIONSHIP AGREEMENT

WSR 89-07-092
PROPOSED RULES
DEPARTMENT OF LICENSING
(Dental Disciplinary Board)

[Filed March 22, 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, repealing WAC 308-37-190;

that the agency will at 9:00 a.m., Saturday, June 10, 1989, in Nendel's at Tukwila, Southcenter Room, 15901

West Valley Highway, Tukwila, 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.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 2, 1989.

Dated: March 22, 1989
By: Amanda L. Tomlinson
Assistant Attorney General

STATEMENT OF PURPOSE

Name of Agency: Washington State Dental Disciplinary Board.

Title: WAC 308-37-190 Specialty representation.

Description of Purpose: To repeal the rule relating to specialty representation by dentists.

Statutory Authority: RCW 18.32.640.

Summary of Rule: WAC 308-37-190, this rule is being considered for repeal.

Responsible Personnel: The Washington State Dental Disciplinary Board has the responsibility for rules adopted, amended or repealed pursuant to chapter 18.32 RCW. The executive secretary for the board is Judy Mayo, 1300 Quince Street, P.O. Box 9012, Olympia, WA 98504, phone 234-2461 scan, 753-2461 comm.

Proponents: The Washington State Dental Disciplinary Board.

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 this rule does not impact small businesses as that term is defined in RCW 19.85.020.

REPEALER

The following section of the Washington Administrative Code is being considered for repeal:

WAC 308-37-290 SPECIALTY REPRESENTATION.

Reviser's note: The repealer appears as filed by the agency pursuant to RCW 34.08.040, however the reference to WAC 308-37-290 is probably intended to be to WAC 308-37-190.

WSR 89-07-093
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 22, 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:

Amd WAC 388-14-270 Distribution of support payments—
Public assistance.
New WAC 388-14-275 Fifty dollars disregard payment;

that the agency will at 10:00 a.m., Tuesday, April 25, 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 April 26, 1989.

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 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 April 11, 1989. The meeting site is in a location which is barrier free.

Dated: March 22, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending WAC 388-14-270 and new 388-14-275.

Purpose of These Rules: To enable the department to pay the \$50 disregard payments to families receiving cash assistance based on the date the support payments are made by the responsible parent.

Reasons These Rules are Necessary: To comply with federal law and a recent federal district court decision.

Statutory Authority: RCW 74.04.057 and 26.23.030.

Summary of the Rule Changes: These rules authorize the department to pay families receiving cash assistance the first \$50 of each monthly child support payment based on the date the payments were made by the responsible parent. Under the rules, the payment date is the earliest of the following dates: The date a payment is received by OSE; the date wages are withheld by the responsible parent's employer; the date postmarked by the United States Postal Service; or the date a payment is received by the IV-D agency in another state or other legal entity making the collection. The department will pay the \$50 disregard payments based on the best information available when the payments are received. The rule also provides for periodic notices to the families on whose behalf support payments are received.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: L. William Paine, Program Administrator 4, Office of Support Enforcement, mailstop PI-11.

Person or Organization who Proposed These Rules: N/A.

These rules are necessary as a result of the Federal Family Support Act of 1988 and a recent federal district court decision (*Vanscoter v. Bowen*).

AMENDATORY SECTION (Amending Order 2738, filed 12/14/88)

WAC 388-14-270 DISTRIBUTION OF SUPPORT PAYMENTS—PUBLIC ASSISTANCE. (1) When the office provides support enforcement services, the office shall distribute all support money collected by the office, or received by the office in its capacity, as the Washington state support registry:

(a) In accordance with state and federal law, if public assistance, or cash benefits under the family independence program, is being or has been provided for the support of the family unit;

(b) To the payee under the order if the payee has physical custody of the children;

(c) To the physical custodian of the children if someone other than the payee has physical custody of and is caring for the children; and/or

(d) To the child support enforcement agency in another state or foreign country which submitted a request for support enforcement services.

(2) Prior to distributing support moneys to a physical custodian who is not the payee under the support order, the office shall:

(a) Obtain a sworn statement from the physical custodian attesting to the fact he or she has physical custody of the children and is caring for them;

(b) Mail a notice of its intent to distribute support money to the physical custodian to the last known address of the payee and the responsible parent;

(i) The notice shall contain the following statements and information:

(A) That the office has collected or received support money due under the support order;

(B) The name of the physical custodian;

(C) That the payee may contest distribution of money to the physical custodian by requesting a conference board under WAC 388-14-385, or filing an appropriate motion with the court that entered the support order;

(D) That the office must be given notice of and made a party to any proceeding to contest the notice of distribution.

(ii) A copy of the sworn statement of the physical custodian shall be attached to the notice; and

(c) File a copy of the notice with the clerk of the court in which the support order was entered.

(3) If the location of the family or person to whom the support money is owed is unknown, the office shall exercise reasonable efforts to locate the family or person. If the office is unable to locate and disburse the money to the family or person, the office shall handle the money in accordance with an agreement with the department of revenue and as required by state law.

(4) The office shall apply the following rules to the distribution of support money:

(a) Record all payments in exact amounts without rounding;

(b) Distribute a support payment within eight days of the date the office receives the payment, unless unable to distribute the payment for one or more of the following reasons:

(i) The location of the payee is unknown;

(ii) There is not sufficient information to identify the accounts against which and to which the payment should be applied;

(iii) An action is filed in a court or agency with jurisdiction to decide the issue, to determine whether or not a support payment is owed and/or how the payment should be distributed;

(iv) Under subsection (6) of this section, the office receives prepaid support moneys which are being held and will be distributed in future months;

(v) The office mails a notice of intent to distribute the support money to the physical custodian under subsection (2) of this section; or

(vi) Other circumstances exist which make a proper and timely distribution of the payment impossible through no fault or lack of diligence of the office.

(c) The date of collection shall be the date on which the payment is received by the office. For interstate collections, the date of collection shall be the date on which the payment is received by the office or the legal entity of any state or political subdivision actually making the collection, whichever is earliest;

(d) The office shall apply all payments:

(i) To satisfy the support obligation for the month in which the payments are received and, then;

(ii) To any support debt or debts owed to:

(A) The family;

(B) A person for whom services are being provided;

(C) The department; or

(D) A child support agency in another state or foreign country.

(e) If the responsible parent owes a current support obligation to more than one family and does not pay enough money during the month to satisfy these current support obligations in full, the office shall distribute the money collected based on the proportionate share of the obligation owed to each family;

(f) The office shall apply amounts received during a month in excess of the responsible parent's current support obligation or obligations to the support debt or debts based on the proportionate size of the debts, except as provided in subsection (4)(g) of this section, if:

(i) The support payment or payments exceed the amount required to satisfy the current support obligation or obligations for that month; and

(ii) The responsible parent owes more than one support debt.

(g) The office may apply amounts distributed under this subsection to a single support debt rather than make a proportionate distribution in the following circumstances:

(i) To satisfy a support debt owed to the family that accrued after the family terminated from public assistance as provided for in RCW 26.23.030; or

(ii) If proportionate distribution is administratively inefficient; or

(iii) If the collection resulted from the sale or disposition of a specific piece of property in which the applicant/recipient or applicant/custodian has a judgment lien for child support.

(h) The office shall convert amounts collected which are paid more frequently than once a month to an amount that represents payment on the required support obligation for the current month. The office of support enforcement is directed to distribute payments periodically to give effect to efficient administration(;;);

(i) The office shall report any amounts distributed to a family, receiving public assistance, to the community service office identifying whether or not the payment is available to meet the need. This requirement shall not relieve the recipient of the duty to report receipt of any support moneys; and

(j) The department shall pay a family, receiving cash assistance under the aid to families with dependent children program or the family independence program, the first fifty dollars of each child support payment provided under WAC 388-14-275.

(5) If the office receives or collects support moneys which represent payment on the required support obligation for future months, the office shall:

(a) Apply the support moneys to such future months if the support debt has been paid in full; and

(b) Distribute the support moneys on a monthly basis as of the date payments become due in the future.

(6) When the office receives or collects prepaid support moneys, the office shall mail a notice to the last known address of the person entitled to receive support payments. The notice shall inform the person that:

(a) The office received prepaid support money;

(b) The office will distribute this money as support payments become due in the future; and

(c) He or she may petition the court that entered the support order for an order requiring the immediate distribution of the prepaid support money.

(7) The office may recover support money distributed to a person or to the family in error, after receipt of a check which is later dishonored, or the office is later required to refund or return the support payment, as follows:

(a) In nonassistance cases, the office may deduct and retain, from subsequent support payments, any amounts collected on a support debt and ten percent of amounts collected as current support. The office shall send a notice to the last known address of the person or family prior to taking action to recover such payments. The notice shall:

(i) Contain a finding that a payment was distributed in error, was paid against a check that was later dishonored, or that the office was required to refund the support payment to the responsible parent;

(ii) Identify the payments the office will recover; and

(iii) Inform the person or family of the amounts that will be deducted from future collections; and

(iv) Inform the person or family they may request an administrative hearing under chapter 34.04 RCW to object to the notice. At the hearing, the person may contest the office's findings regarding the existence and amount of the debt for erroneous payments or other payments the office is seeking to recover.

(b) If person or family is no longer receiving support enforcement services, the office of support enforcement may take action under RCW 74.20A.270 to recover the money.

(8) If the family is receiving public assistance and the applicant/recipient fails to remit support payments to the office as required, the office shall use the process set forth in WAC 388-14-200 to recover such support payments.

NEW SECTION

WAC 388-14-275 FIFTY DOLLARS DISREGARD PAYMENT. (1) In accordance with federal law, the department shall pay a family, receiving cash assistance under the aid to families with dependent children program or the family independence program, the first fifty dollars of each child support payment made by the responsible parent in the month when due. The department shall pay the family no more than fifty dollars for each month in which a support payment is made. For purposes of this section, a payment is made by the responsible parent on the earliest of the following dates:

(a) The date a payment is received by the office of support enforcement;

(b) The date a payment is withheld from the responsible parent's wages;

(c) The date the envelope containing a payment is postmarked by the United States Postal Service; or

(d) The date received by the IV-D agency in another state or other legal entity making the collection.

(2) The department shall make a payment to the family under subsection (1) of this section based on the best information provided to the office of support enforcement with the support payment. The best information includes the earliest of the following dates:

(a) The date wages were withheld;

(b) The date an employer issues a check containing wages withheld from the responsible parent;

(c) The date postmarked by the United States Postal Service;

(d) The date received by the IV-D agency in another state or other legal entity making the collection;

(e) The date the IV-D agency in another state or other legal entity issues a check containing a child support payment from the responsible parent;

(f) The date a check is negotiable if the office of support enforcement receives a postdated check;

(g) The date process is served attaching accounts and earnings of a responsible parent, other than wages, or the date the responsible parent is entitled to receive such earnings, whichever is later; or

(h) The date the proceeds are paid from the sale of attached personal or real property.

(3) If the department subsequently receives information establishing an earlier payment date, the department shall take prompt action to make a payment required under this section or recover an erroneous payment.

(4) The office of support enforcement shall mail a notice, not less than once a quarter, to a family receiving cash assistance for whom child support was received during the reporting period. The notice shall contain the following information:

(a) The amount of the child support order;

(b) The amount of child support received;

(c) A description of how the office allocated the child support between the family and the state;

(d) The amount the department claims as reimbursement for public assistance paid; and

(e) A statement of the right to an adjudicative proceeding under chapter 34.05 RCW to contest the allocation of child support.

(5) The provisions of this section do not apply to:

(a) Child support received by the office of support enforcement by means of an income tax refund intercept authorized under 42 USC 666 (a)(1) or 666 (a)(3)(B); or

(b) Child support payments received by the office of support enforcement after the family terminates from assistance that are paid to the family under chapter 26.23 RCW and WAC 388-14-270 as current support for the month or on the support debt owed to the family.

(6) The section applies to payments made by the responsible parent on or after January 1, 1989.

WSR 89-07-094
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 22, 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 Medical care—Nursing home care, amending chapter 388-88 WAC;

that the agency will at 10:00 a.m., Tuesday, April 25, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 26, 1989.

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

The specific statute these rules are intended to implement is RCW 74.42.620.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 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 April 11, 1989. The meeting site is in a location which is barrier free.

Dated: March 22, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: New WAC 388-88-098 and 388-88-099; and amending WAC 388-88-080 and 388-88-101.

Purpose of the Rule or Rule Change: To comply with Medicaid requirements mandated by federal law (OBRA-87).

Reason These Rules are Necessary: To implement OBRA-87 requirements that nursing home residents who have a mental illness or developmental disability be identified, assessed for active treatment need, and appropriately placed.

Statutory Authority: RCW 18.51.070, 18.51.350, 74.42.620, 74.42.630 and 74.42.910.

Summary of the Rule or Rule Change: Requires Medicaid nursing homes to screen all residents to identify those who are likely to have a developmental disability or mental illness; provides for assessment and determination of need for active treatment for residents so

identified; sets forth circumstances under which those residents will be required to relocate to appropriate placements; and specifies appeal rights.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Peggy L. Brown, Chief, Nursing Home Policy, Nursing Home Services/AASA, phone 753-3286, mailstop HB-11.

Person or Organization who Proposed These Rules: N/A.

These rules are necessary as a result of federal law, OBRA-87.

AMENDATORY SECTION (Amending Order 1871, filed 9/1/82)

WAC 388-88-080 UTILIZATION REVIEW AND CLASSIFICATION OF CLIENTS. (1) Nursing care consultants shall determine the level of care ((determinations)) in skilled nursing and intermediate care facilities ((are made by the nursing care consultants)) in ((accordance)) accord with the nursing care consultants' professional judgment and ((in accord with)) as described under WAC 388-88-081 and 388-88-083.

(2) In making classification recommendations for nursing home placement, the department's personnel shall utilize the guidelines for skilled and intermediate nursing home care ((m)) described under WAC 388-88-081 and 388-88-083.

(3) The nursing care consultant shall periodically review the classification of each individual nursing home client ((shall periodically be reviewed by the nursing care consultant)) to assure appropriate use of Medicaid services by:

(a) Assessing ((client(s))) client care needs and adequacy of services provided((-));

(b) Determining the need for continued stay((-); and

(c) Identifying the level of care required to meet the nursing care needs of the client.

(4) Classification changes shall be made in accordance with the needs of the clients and in accord with appeal and relocation procedures outlined ((m)) under WAC 388-88-101.

(5) When the department determines a resident does not require the level of services provided by a nursing facility, but the resident requires active treatment and has continuously resided in the nursing facility for thirty months or more, the department shall:

(a) Inform the resident of the institutional and noninstitutional alternatives available to the resident;

(b) Offer the resident the choice of remaining in the facility or of receiving covered services in an alternative appropriate institutional or noninstitutional setting;

(c) Clarify the effect on the eligibility for departmental services if the resident chooses to leave the facility; and

(d) Document the information given to the resident and the choice made by the resident in the resident's medical record.

(6) Residents, determined under WAC 388-88-099 to need active treatment, shall be required to relocate when the department determines an appropriate placement is available.

NEW SECTION

WAC 388-88-098 IDENTIFICATION SCREENING FOR CURRENT RESIDENTS. (1) By July 1, 1989, every Medicaid certified nursing facility shall complete an identification screen, to identify residents likely to have a mental illness or developmental disability:

(a) On a form designated by the department; and

(b) For every Medicaid, Medicare, or private-paying individual residing in the nursing facility, except for those individuals for whom a pre-admission screen has been completed under WAC 388-88-097.

(2) The original of the identification screen form shall be maintained in the individual resident's medical record. For those individuals identified through the identification screen as likely to have a mental illness or a developmental disability, the nursing facility shall forward a copy of the identification screen to the department's nursing care consultant assigned to the facility.

(3) The department shall deny payment to a nursing facility for any resident for whom an identification screen has not been completed as required under this section.

NEW SECTION

WAC 388-88-099 ACTIVE TREATMENT ASSESSMENTS FOR CURRENT RESIDENTS. (1) For all residents of nursing homes identified, through the identification screen under WAC 388-88-098, as likely to have a mental illness or a developmental disability, the department shall determine if the individual requires active treatment, using the procedures under subsection (3) of this section, unless one of the following exceptions apply:

(a) A physician certifies the individual is terminally ill, as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(b) The individual has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder; or

(c) The individual is comatose, ventilator dependent, functioning at the brain stem level, or has similar diagnoses significantly impacting the individual's level of functioning and ability to participate in active treatment, such as:

(i) Chronic obstructive pulmonary disease;

(ii) Severe Parkinson's disease;

(iii) Huntington's chorea disease;

(iv) Amyotrophic lateral sclerosis; or

(v) Congestive heart failure.

(2) For an individual meeting the following conditions, the department shall determine if the individual requires active treatment:

(a) Was admitted to a Medicaid-certified nursing facility on or after January 1, 1989;

(b) Was identified, under WAC 388-88-097, as likely to have a mental illness or a developmental disability;

(c) Was admitted for a period of convalescence of not more than one hundred twenty days; and

(d) Is determined by the department's designee, after the individual has resided in the facility for approximately sixty days, as likely to need nursing facility care for more than one hundred twenty days.

The department shall follow the procedures under subsection (3) of this section in making determinations regarding the need for active treatment.

(3)(a) For an individual identified as likely to have a mental illness:

(i) A qualified mental health professional, under chapter 275-56 WAC, shall:

(A) Validate whether the individual has a mental illness; and

(B) If mental illness is validated, recommend whether the individual needs the implementation of psychiatric active treatment.

(ii) The department shall make the final determination of the individual's need for implementation of active psychiatric treatment.

(b) For an individual identified as likely to have a developmental disability:

(i) A psychologist, meeting the qualifications of a qualified mental retardation professional, shall validate whether the individual has a developmental disability; and

(ii) If a developmental disability is validated, the department shall assess and make a final determination of whether the individual requires a continuous active treatment program.

AMENDATORY SECTION (Amending Order 2592, filed 1/28/88)

WAC 388-88-101 RESIDENTS' RIGHTS. (1) The department shall notify the appropriate ((individual(s))) individual listed in subsection (2) of this section whenever a medical assistance client must be discharged from a nursing home because:

(a) There is a reclassification of the client's required level of care, resulting in termination of medical assistance payments to the nursing home where the client currently resides; ((or))

(b) The department determines the client requires active treatment and an appropriate placement is available; or

(c) The nursing home where the client currently resides has requested the client be relocated, and the department has approved, for:

(i) Medical reasons concerning the client;

(ii) The welfare of the client or other residents; or

(iii) Nonpayment by the client.

(2) The department shall provide the notification required in subsection (1) of this section to one or more of the following, as appropriate:

(a) The ((medical assistance)) client;

(b) The ((medical assistance)) client's legal guardian;

(c) The ((medical assistance)) client's next of kin or responsible party.

(3) The department shall provide the notification required in subsection (1) of this section in writing thirty days prior to:

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BOARD OF HEALTH

[Order 325—Filed March 22, 1989]

(a) The effective date of the reclassification or relocation determination resulting in termination of medical assistance payments to the nursing home; or

(b) The relocation requested by the nursing home.

(4) The department is not required to provide notification in cases specified in subsections (7) and (8) of this section.

(5) The department's notice shall inform the client of:

(a) The reasons for the proposed change (~~(and/or transfer)~~) or relocation;

(b) The client's right to a conference with departmental representatives (~~(and any other individuals the client wishes to speak to)~~) within thirty days of receipt of such notice;

(c) The client's right to request a fair hearing within ninety days of receipt of the notice to contest the department's decision; except, the request shall be made within thirty days to delay the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The client's right to be represented at the fair hearing by an authorized representative; and

(f) The existence of any legal services available in the community and the toll-free telephone number of the state long-term care ombudsman.

(6) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) If the client (~~(must request)~~) requests a fair hearing within thirty days of receipt of the reclassification or relocation notice (~~(in order to have the current level of care continued:)~~), any proposed change (~~(and/or)~~) or transfer shall be delayed pending the outcome of the appeal process.

(b) The department shall take no further action to change the level of care or transfer the patient if the secretary or (~~(his or her)~~) the secretary's designee finds a change in the level of care or relocation is not appropriate at the time. If there is a change in the situation or circumstances, the department may again initiate action to reclassify or relocate the client.

(c) The department shall proceed with the planned action if:

(i) The secretary or (~~(his or her)~~) the secretary's designee affirms the determination to change the level of care or transfer, and

(ii) No judicial review is filed within thirty days of receipt of notice of termination.

(d) (~~(Medical assistance)~~) Except as provided under subsection (6)(e) of this section, clients assessed as no longer requiring nursing home care who refuse to transfer to another level of care will be ineligible for Medicaid nursing home payment:

(i) Thirty days following the effective date of determination; or

(ii) Thirty days following the fair hearing decision affirming the department's determination of not in need of nursing care.

(e) A client determined to need active treatment, under WAC 388-88-099, who refuses to relocate when the department determines an appropriate placement is available, shall be ineligible for Medicaid nursing home payment thirty days following the department's determination that an appropriate placement is available, or thirty days following a fair hearing decision affirming the department's determinations that the client needs active treatment and an appropriate placement is available.

(7) Advance notice is not required when:

(a) The (~~(medical assistance)~~) client or the next of kin, guardian or responsible party, requests a transfer in writing and waives the right to a period of notice.

(b) An immediate threat to the client's life or health, or that of others is present.

(c) The department judges the facility where the client resides is no longer able to provide Title XIX services due to:

(i) Termination of provider's contract;

(ii) Decertification of the provider;

(iii) Nonrenewal of provider's contract;

(iv) Revocation of provider's license; or

(v) Emergency license suspension.

(8) No notice shall be required if a decision is made to reclassify a client but no discharge, transfer, or relocation of the client from the nursing home is necessary or contemplated as a result of such decision to reclassify.

Be it resolved by the Washington State Board of Health, acting at the Westwater Inn, Olympia, Washington, that it does adopt the annexed rules relating to:

Amd WAC 248-100-011 Definitions.

Amd WAC 248-100-206 Special diseases—Sexually transmitted diseases.

This action is taken pursuant to Notice No. WSR 89-04-055 filed with the code reviser on February 1, 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 chapter 70.24 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 March 8, 1989.

By John A. Beare, MD, MPH
Secretary

AMENDATORY SECTION (Amending Order 317, filed 8/17/88)

WAC 248-100-011 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of chapter 248-100 WAC:

(1) "Acquired immunodeficiency syndrome (AIDS)" means an illness characterized by the diseases and conditions defined and described by the Centers for Disease Control, U.S. Public Health Services, Morbidity and Mortality Weekly Report (~~(MMR)~~) MMWR, August 14, 1987, Volume 36, Number 1S.

(2) "AIDS counseling" means counseling directed toward:

(a) Increasing the individual's understanding of acquired immunodeficiency syndrome; and

(b) Assessing the individual's risk of HIV acquisition and transmission; and

(c) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.

(3) "Board" means the Washington state board of health.

(4) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others, but who may or may not have signs and/or symptoms of the disease.

(5) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(6) "Category A disease or condition" means a reportable disease or condition of urgent public health importance, a case or suspected case of which must be reported to the local or state health officer immediately at the time of diagnosis or suspected diagnosis.

(7) "Category B disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer no later than the next working day following date of diagnosis.

(8) "Category C disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer within seven days of diagnosis.

(9) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(10) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

(11) "Contact" means a person exposed to an infected person, animal, or contaminated environment which might provide an opportunity to acquire the infection.

(12) "Department" means the Washington state department of social and health services.

(13) "Detention" or "detainment" means physical restriction of activities of an individual by confinement, consistent with WAC 248-100-206(8), for the purpose of monitoring and eliminating behaviors presenting imminent danger to public health and may include physical plant, facilities, equipment, and/or personnel to physically restrict activities of the individual to accomplish such purposes.

(14) "Food handler" means any person preparing, processing, handling, or serving food or beverages for people other than members of his or her household.

(15) "Food service establishment" means any establishment where food or beverages are prepared for sale or service on the premises or elsewhere, and any other establishment or operation where food is served or provided for the public with or without charge.

(16) "Health care facility" means:

(a) Any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, maternity homes, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establishments, clinics, or other settings where one or more health care providers practice; and

(b) In reference to a sexually transmitted disease, other settings as defined in chapter 70.24 RCW.

(17) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care who is:

(a) Licensed or certified in this state under Title 18 RCW; or

(b) Is military personnel providing health care within the state regardless of licensure.

(18) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 248-100-207.

(19) "Infection control measures" means the management of infected persons, persons suspected to be infected, and others in such a manner as to prevent transmission of the infectious agent.

(20) "Isolation" means the separation or restriction of activities of infected persons, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

(21) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any medical laboratory.

(22) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

(23) "Local health officer" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(24) "Medical laboratory" means any facility analyzing specimens of original material from the human body for purposes of patient care.

(25) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

(26) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(27) "Post-test counseling" means counseling after the HIV test when results are provided and directed toward:

(a) Increasing the individual's understanding of human immunodeficiency virus (HIV) infection;

(b) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection;

(c) Encouraging the individual testing positive to notify persons with whom there has been contact capable of spreading HIV;

(d) Assessing emotional impact of HIV test results; and

(e) Appropriate referral for other community support services.

(28) "Pretest counseling" means counseling provided prior to HIV testing and aimed at:

(a) Helping an individual to understand:

(i) Ways to reduce the risk of human immunodeficiency virus (HIV) transmission;

(ii) The nature, purpose, and potential ramifications of HIV testing;

(iii) The significance of the results of HIV testing; and

(iv) The dangers of HIV infection; and

(b) Assessing the individual's ability to cope with the results of HIV testing.

(29) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

(30) "Quarantine" means the separation or restriction on activities of a person having been exposed to or infected with an infectious agent, to prevent disease transmission.

(31) "Reportable disease or condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer.

(32) "School" means a facility for programs of education as defined in RCW 28A.31.102 (preschool and kindergarten through grade twelve).

(33) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

- (a) Acute pelvic inflammatory disease;
- (b) Chancroid;
- (c) Chlamydia trachomatis infection;
- (d) Genital and neonatal herpes simplex;
- (e) Genital human papilloma virus infection;
- (f) Gonorrhea;
- (g) Granuloma inguinale;
- (h) Hepatitis B infection;
- (i) Human immunodeficiency virus infection (HIV) and acquired immunodeficiency syndrome (AIDS);
- (j) Lymphogranuloma venereum;
- (k) Nongonococcal urethritis (NGU); and
- (l) Syphilis.

(34) "State health officer" means the person designated by the secretary of the department to serve as state-wide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

(35) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

(36) "Unusual communicable disease" means a communicable disease which is not commonly seen in the state of Washington but which is of general public health concern including, but not limited to, Lassa fever, smallpox, typhus, and yellow fever.

(37) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry and practicing animal health care.

AMENDATORY SECTION (Amending Order 322, filed 10/19/88)

WAC 248-100-206 SPECIAL DISEASES—SEXUALLY TRANSMITTED DISEASES. (1) Definitions.

(a) "Behaviors presenting imminent danger to public health (BPID)" means the following activities, under

conditions specified below, performed by an individual with a laboratory confirmed HIV infection:

(i) Anal or vaginal intercourse without a latex condom; or

(ii) Shared use of blood-contaminated injection equipment;

(iii) Donating or selling HIV-infected blood, blood products, or semen; and

(iv) Under the following specified conditions:

(A) The infected individual received post-test counseling as described in WAC 248-100-209 prior to repeating activities in subsection (1)(a)(i) and (ii) of this section; and

(B) The infected individual did not inform the persons, with whom activities described in subsection (1)(a)(i) and (ii) of this section occurred, of his or her infectious status.

(b) "Behaviors presenting possible risk" means:

(i) Actual actions resulting in "exposure presenting a possible risk" limited to:

(A) Anal, oral, or vaginal intercourse excluding conjugal visits; or

(B) Physical assault; or

(C) Sharing of injection equipment or sharp implements; or

(D) Throwing or smearing of blood, semen, or vaginal fluids; or

(ii) Threatened action if:

(A) The threatening individual states he or she is infected with HIV; and

(B) The threatened behavior is listed in subsection (1)(b)(i)(A), (B), (C), and (D) of this section; and

(C) The threatened behavior could result in "exposure presenting a possible risk."

(c) "Conduct endangering public health" means:

(i) Anal, oral, or vaginal intercourse for all sexually transmitted diseases;

(ii) For HIV and Hepatitis B:

(A) Anal, oral, or vaginal intercourse; and/or

(B) Sharing of injection equipment; and/or

(C) Donating or selling blood, blood products, body tissues, or semen; and

(iii) Activities described in subsection (1)(d)(i) and (ii) of this section resulting in introduction of blood, semen, and/or vaginal fluids to:

(A) Mucous membranes;

(B) Eyes;

(C) Open cuts, wounds, lesions; or

(D) Interruption of epidermis.

(d) "Exposure presenting possible risk" means one or more of the following:

(i) Introduction of blood, semen, or vaginal fluids into:

(A) A body orifice or a mucous membrane;

(B) The eye; or

(C) An open cut, wound, lesion, or other interruption of the epidermis.

(ii) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.

(e) "Reasonably believed" or "reason to believe," in reference to a sexually transmitted disease, means a health officer's belief which:

(i) For the purpose of investigating the source and spread of disease, is based upon a credible report from an identifiable individual indicating another person is likely to have a sexually transmitted disease (STD) or to have been exposed to a STD; and

(ii) For the purpose of issuing a written order for an individual to submit to examination, counseling, or treatment is based upon:

(A) Laboratory test results confirming or suggestive of a STD; or

(B) A health care provider's direct observation of clinical signs confirming an individual has or is likely to have a STD; or

(C) Obtaining information directly from an individual infected with a STD about the identity of his or her sexual or needle-sharing contacts when:

(I) Contact with the infected individual occurred during a period when the disease may have been infectious; and

(II) The contact was sufficient to transmit the disease; and

(III) The infected individual is, in the health officer's judgment, credible and believable.

(f) "Substantial exposure" means physical contact resulting in exposure presenting possible risk, limited to:

(i) A physical assault upon the exposed person involving blood or semen;

(ii) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person;

(iii) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids.

(2) Health care providers shall:

(a) Report each case of sexually transmitted disease as required in chapter 248-100 WAC, and

(b) Instruct each patient regarding:

(i) Communicability of the disease, and

(ii) Requirements to refrain from acts that may transmit the disease to another.

(c) Ensure completion of a prenatal serologic test for syphilis in each pregnant woman pursuant to RCW 70-24.090 including:

(i) Submission of a blood sample for syphilis to a laboratory approved to perform prenatal serologic tests for syphilis, as required in RCW 70.24.090, at the time of the first prenatal visit, and

(ii) Decide whether or not to omit the serologic test for syphilis if the test was performed elsewhere during the current pregnancy.

(3) Laboratories, health care providers, and other persons shall deny issuance of a certificate or statement implying an individual is free from sexually transmitted disease.

(4) Local health officers, health care providers, and others, in addition to requirements in chapter 248-100 WAC, shall comply with the provisions in chapter 70.24 RCW.

(5) Prevention of ophthalmia neonatorum.

(a) Health care providers diagnosing or caring for a patient with gonococcal or chlamydial ophthalmia

neonatorum shall report the case to the local health officer or local health department in accordance with the provisions of this chapter.

(b) The principal health care provider attending or assisting in the birth of any infant or caring for an infant after birth, shall ensure instillation of a department-approved prophylactic ophthalmic agent into the conjunctival sacs of the infant within the time frame established by the department in policy statement of ophthalmia agents approved for the prevention of ophthalmia neonatorum in the newborn, issued June 19, 1981.

(6) State and local health officers or their authorized representatives shall:

(a) Have authority to conduct or cause to be conducted an interview and investigation of persons infected or reasonably believed to be infected with a sexually transmitted disease; and

(b) Use procedures and measures described in WAC 248-100-036(4) in conducting investigations.

(7) State and local health officers and their authorized representatives shall have authority to:

(a) Issue written orders for medical examination, testing, and/or counseling under chapter 70.24 RCW, only after:

(i) All other efforts to protect public health have failed, including reasonable efforts to obtain the voluntary cooperation of the person to be affected by the order; and

(ii) Having sufficient evidence to "reasonably believe" the individual to be affected by the order:

(A) Has a sexually transmitted disease; and

(B) Is engaging in "conduct endangering public health"; and

(iii) Investigating and confirming the existence of "conduct endangering public health" by:

(A) Interviewing sources to assess their credibility and accuracy; and

(B) Interviewing the person to be affected by the order; and

(iv) Including in a written order all information required in RCW 70.24.024.

(b) Issue written orders for treatment under RCW 70.24.022 only after laboratory test results, or direct observation of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease;

(c) Issue written orders to cease and desist from specified activities, under RCW 70.24.024 only after:

(i) Determining the person to be affected by the order is engaging in "conduct endangering public health"; and

(ii) Laboratory test results, or direct observation of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease; and

(iii) Exhausting procedures described in subsection (7)(a) of this section; and

(iv) Enlisting, if appropriate, court enforcement of the orders described in subsections (7)(a) and (b) of this section; and

(d) Seek court orders for detention under RCW 70-24.034, only for persons infected with HIV and only after:

(i) Exhausting procedures described in subsection (7)(a), (b), and (c) of this section; and

(ii) Enlisting, if appropriate, court enforcement of orders to cease and desist; and

(iii) Having sufficient evidence to "reasonably believe" the person is engaging in "behaviors presenting an imminent danger to public health."

(8) Conditions for detainment of individuals infected with sexually transmitted disease.

(a) A local health officer may notify the state health officer if he or she determines:

(i) The criteria for "behaviors presenting imminent danger to public health (BPID)" are met by an individual; and

(ii) Such individual fails to comply with a cease and desist order affirmed or issued by a court.

(b) A local or state health officer may request the prosecuting attorney to file an action in superior court to detain an individual specified in subsection (8)(a) of this section.

(c) The requesting local or state health officer or authorized representative shall:

(i) Notify the department prior to recommending the detainment setting where the individualized counseling and education plan may be carried out consistent with subsections (8)(d), (e), and (f) of this section;

(ii) Make a recommendation to the court for placement of such individual consistent with subsections (8)(d) and (f) of this section; and

(iii) Provide to the court an individualized plan for education and counseling consistent with subsection (8)(e) of this section.

(d) State board of health requirements for detainment of individuals demonstrating BPID:

(i) Sufficient number of staff, caregivers, and/or family members to:

(A) Provide round-the-clock supervision, safety of detainee, and security; and

(B) Limit and restrict activities to prevent BPID; and

(C) Make available any medical, psychological, or nursing care when needed; and

(D) Provide access to AIDS education and counseling; and

(E) Immediately notify the local or state health officer of unauthorized absence or elopement; and

(ii) Sufficient equipment and facilities to provide:

(A) Meals and nourishment to meet nutritional needs; and

(B) A sanitary toilet and lavatory; and

(C) A bathing facility; and

(D) Bed and clean bedding appropriate to size of detainee; and

(E) A safe detention setting appropriate to chronological and developmental age of detainee; and

(F) A private sleeping room; and

(G) Prevention of sexual exploitation.

(iii) Sufficient access to services and programs directed toward cessation of BPID and providing:

(A) Linguistically, socially, culturally, and developmentally appropriate ongoing AIDS education and counseling; and

(B) Psychological and psychiatric evaluation and counseling; and

(C) Implementation of court-ordered plan for individualized counseling and education consistent with subsection (8)(e) of this section.

(iv) If required, provide access to isolation and/or restraint in accordance with restraint and seclusion rules in WAC 275-55-263 (2)(c);

(v) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.

(e) Washington state board of health standards for an individualized counseling and education plan for a detainee include:

(i) Consideration of detainee's personal and environmental characteristics, culture, social group, developmental age, and language;

(ii) Identification of habitual and addictive behavior and relapse pattern;

(iii) Identification of unique risk factors and possible cross-addiction leading to behavior presenting imminent danger to public health;

(iv) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;

(v) Provision of information about acquisition and transmission of HIV infection;

(vi) Teaching and training of individual coping skills to prevent relapse to BPID;

(vii) Specific counseling for chemical dependency, if required;

(viii) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and

(ix) Designation of a person primarily responsible for counseling and/or education who:

(A) Completed pretest and post-test counselor training approved by the office on AIDS; and

(B) Received training, as approved by the office on AIDS, focused on facilitating behavior change related to preventing BPID; and

(C) Has a post-graduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and

(D) Completed at least one year clinical experience after post-graduate education with a primary focus on individualized behavior change; and

(E) Is a certified counselor under chapter 18.19 RCW.

(x) Designation and provision of a qualified counselor under WAC 275-19-145 when the detainee is assessed to have a drug or alcohol problem.

(f) The state board of health designates the following settings appropriate for detainment provided a setting meets requirements in subsection (8)(d)(i), (ii), (iii), (iv), and (v) of this section:

(i) Homes, care facilities, or treatment institutions operated or contracted by the department;

(ii) Private homes, as recommended by the local or state health officer;

(iii) Boarding homes licensed under chapter 18.20 RCW;

(iv) Nursing homes licensed under chapter 18.51 RCW;

(v) Facilities licensed under chapter 71.12 RCW, including:

(A) Psychiatric hospitals, per chapter 248-22 WAC;

(B) Alcoholism treatment centers if certified for substance use under chapter 275-19 WAC;

(C) Adult residential rehabilitation centers, per chapter 248-25 WAC;

(D) Private adult treatment homes, per chapter 248-25 WAC;

(E) Residential treatment facilities for psychiatrically impaired children and youth, per chapter 248-23 WAC;

(vi) A hospital licensed under chapter 70.41 RCW.

(9) Jail administrators may order pretest counseling, post-test counseling, and HIV testing of persons detained in jail according to RCW 70.24.360 only under the following conditions:

(a) The jail administrator documents and reports to the local health officer, within seven days after the incident, any incident perceived to be actual or threatened "behaviors presenting possible risk"; and

(b) The local health officer:

(i) Determines the documented behavior or behaviors meet the criteria established in the definition of "behaviors presenting a possible risk"; and

(ii) Interviews the detained individual to evaluate the factual basis for alleged actual or threatened behavior; and

(iii) Makes a fact determination, based upon the documented behavior, the interview with the detained individual, and/or ((~~dependent~~)) independent investigation, that sufficient factual evidence exists to support the allegation of actual or threatened "behaviors presenting possible risk"; and

(iv) Arranges for testing of the individual who is the source of the behavior to occur within seven days of the request from the jail administrator; and

(v) Reviews with the detained individual who is the source of the behavior the documentation of the actual or threatened behavior to try to assure understanding of the basis for HIV testing; and

(vi) Provides written approval of the jail administrator's order prior to HIV testing in accordance with subsection (7)(a)(i) of this section.

(c) The jail administrator maintains HIV test results and identity of the tested individual as a confidential, nondisclosable record, as provided in RCW 70.24.105.

(10) When an individual experiences a substantial exposure to another individual's body fluids and requests HIV testing of that other individual, the state and local health officers have authority to order pretest counseling, HIV testing, and post-test counseling of that other individual providing:

(a) The alleged exposure occurred when the individual was employed or acting as an authorized volunteer in one of the following employment categories:

(i) Law enforcement officer;

(ii) Firefighter;

(iii) Health care provider;

(iv) Staff of health care facilities; and

(b) The alleged substantial exposure occurred on the job; and

(c) The request to the health officer for testing and counseling of the individual was made within seven days of the occurrence of the alleged exposure; and

(d) The local health officer:

(i) Determines that the alleged exposure meets the criteria established in the definition of "substantial exposure"; and

(ii) Ensures that pretest counseling of the individual to be tested, or a legal representative, occurs; and

(iii) Arranges for testing of the individual who is the source of the exposure to occur within seven days of the request from the person exposed; and

(e) The exposed individual agrees to be tested for HIV if such testing is determined appropriate by the health officer; and

(f) Records on HIV testing ordered by a health officer are maintained only by the ordering health officer.

(11) For the purpose of RCW 49.60.172 concerning the absence of HIV infection as a bona fide occupational qualification only, "significant risk" means a job qualification which requires person-to-person contact likely to result in direct introduction of blood into the eye, an open cut or wound, or other interruption of the epidermis, when:

(a) No adequate barrier protection is practical; and

(b) Determined only on case-by-case basis consistent with RCW 49.60.180.

WSR 89-07-096

ADOPTED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2777—Filed March 22, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to background inquiries, new chapter 388-330 WAC.

This action is taken pursuant to Notice No. WSR 89-02-067 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 74.15.030 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 March 21, 1989.

By Leslie F. James, Director
Administrative Services

Chapter 388-330 WAC
BACKGROUND INQUIRIES

NEW SECTION

WAC 388-330-010 PURPOSE AND AUTHORITY. This chapter establishes policy within the department of social and health services for conducting central registry and criminal history portions of background inquiries and checks of Washington state patrol's child abuse information file on those licensed or authorized by the department to care for children or developmentally disabled persons. Such inquiries are required under RCW 74.15.030.

NEW SECTION

WAC 388-330-020 SCOPE. (1) Background inquiries.

(a) Inquiries shall include, but are not limited to:

- (i) Review of records of criminal convictions and pending criminal charges as listed by the Washington state patrol (WSP) per chapters 10.97 and 43.43 RCW;
- (ii) Review of the central registry of abuse and neglect established per RCW 26.44.070, repealed pursuant to 2SSB 5063, laws of 1987, chapter 486; and
- (iii) Review of Washington state patrol file of a person found to be a child abuser in a civil adjudication or a disciplinary board final decision.

(b) Inquiries may include a review of law enforcement records of convictions and pending charges in other states or locations whenever the need for further information is indicated by:

- (i) An individual's prior residences;
- (ii) Reports from credible community sources; or
- (iii) An identification number indicating the subject has a record on file with the Federal Bureau of Investigation.

(2) Affected persons. Persons subject to background inquiries include:

- (a) All persons licensed to care for children or disabled persons under:
 - (i) Chapter 74.15 RCW; or
 - (ii) Contract with the department to provide that care.
- (b) All staff, employed by licensed or authorized providers, involved in the direct care or supervision of children and developmentally disabled persons;
- (c) Any volunteer or other person having regular, unsupervised access to children or developmentally disabled persons in facilities, homes, or operations licensed or authorized by the department to provide care under chapter 74.15 RCW.

(3) Persons not affected. This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial and where the provider is not acting in place of the parent.

(4) This chapter does not apply to persons being considered for employment or volunteer activities with the department of social and health services. Background check requirements applicable to department employees and volunteers are set forth in MSR 326-26-140 and 2SSB 5063, laws of 1987, chapter 486, respectively.

NEW SECTION

WAC 388-330-030 APPLICATION OF INQUIRY FINDINGS. (1) For the purposes of conducting criminal history portions of background inquiries pursuant to RCW 74.15.030, the department shall consider only convictions and pending charges. The department shall not solicit or use as the sole basis for disqualification information about:

- (a) Arrests not resulting in charges; and
 - (b) Charges which were dismissed.
- (2) The department shall maintain a listing of offenses which, because of their seriousness, shall disqualify prospective care providers from being licensed or otherwise authorized to provide care to children or developmentally disabled persons. The following offenses or their equivalents in jurisdictions outside of the state of Washington shall constitute that list:
- (a) Aggravated murder;
 - (b) Murder in the first degree;
 - (c) Murder in the second degree;
 - (d) Manslaughter in the first degree;
 - (e) Manslaughter in the second degree;
 - (f) Simple assault, if it involves physical harm to another person;
 - (g) Assault in the first degree;
 - (h) Assault in the second degree;
 - (i) Assault in the third degree;
 - (j) Vehicular homicide;
 - (k) Criminal mistreatment in the first degree;
 - (l) Criminal mistreatment in the second degree;
 - (m) Reckless endangerment;
 - (n) Kidnapping in the first degree;
 - (o) Kidnapping in the second degree;
 - (p) Unlawful imprisonment;
 - (q) Rape in the first degree;
 - (r) Rape in the second degree;
 - (s) Rape in the third degree;
 - (t) First degree rape of a child;
 - (u) Second degree rape of a child;
 - (v) Third degree rape of a child;
 - (w) Child molestation in the first degree;
 - (x) Child molestation in the second degree;
 - (y) Child molestation in the third degree;
 - (z) Sexual misconduct with a minor in the first degree;
 - (aa) Sexual misconduct with a minor in the second degree;
 - (bb) Indecent liberties;
 - (cc) Arson in the first degree;
 - (dd) Arson in the second degree;
 - (ee) Burglary in the first degree;
 - (ff) Extortion in the first degree;
 - (gg) Extortion in the second degree;
 - (hh) Robbery in the first degree;
 - (ii) Robbery in the second degree;
 - (jj) Incest in the first degree;
 - (kk) Incest in the second degree;
 - (ll) Promoting prostitution in the first degree;
 - (mm) Promoting prostitution in the second degree;
 - (nn) Sexual exploitation of a minor;

(oo) Communication with a minor for immoral purposes;

(pp) Child selling – child buying;

(qq) Public indecency, if toward a person under the age of fourteen years;

(rr) Dealing in depictions of a minor engaged in sexually explicit conduct;

(ss) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

(tt) Possession of depictions of a minor engaged in sexually explicit conduct;

(uu) Patronizing a juvenile prostitute;

(vv) Family abandonment;

(ww) Unlawfully manufacturing, delivering, or possessing, with intent to deliver, a controlled substance;

(xx) Promoting a suicide attempt;

(yy) Malicious harassment;

(zz) Promoting pornography;

(aaa) Coercion.

(3) Whenever a criminal history inquiry reveals a prospective care provider has been charged with or convicted of an offense, or has been listed in the central registry as a perpetrator of substantiated child abuse or neglect, or in the WSP file as a person found to be a child abuser in a civil adjudication or disciplinary board final decision, the department shall take action as follows:

(a) If it is confirmed the subject's name appears on the aforementioned WSP file of child abusers, that person shall not be licensed, employed by licensees or contractors, serve in a volunteer capacity for licensees or contractors, or otherwise be authorized by the department to provide care. If the subject's name appears on the central registry of child abuse, the individual shall be disqualified;

(b) If the inquiry reveals charges are pending against the subject for any of the offenses listed in subsection (1) of this section, or their equivalents in other jurisdictions, the department shall withhold licensure or authorization to provide care until dismissal or acquittal occurs. Pending charges for other offenses may be grounds for withholding licensure or authorization to provide care. If the inquiry reveals pending charges are more than one year old, the department shall contact the charging law enforcement agency to determine the disposition or status of the charge;

(c) If the inquiry reveals the subject has been convicted of any of the offenses listed in subsection (1) of this section or their equivalents in other jurisdictions, the department shall deny licensure or authorization to provide care;

(d) If the inquiry reveals the subject has been convicted of an offense not listed, the department shall consider such information in determining the character, suitability, and competence of the prospective caretaker as required by chapter 74.15 RCW. However, the department shall not use conviction as the sole basis for denial of licensure or authorization to provide care unless the conviction is directly related to the employment, licensure, or authorization being sought. The department

shall consider the recency, seriousness, kind, and number of previous offenses as well as the vulnerability of the clients to be cared for.

NEW SECTION

WAC 388-330-040 INQUIRY FORM TO BE SUBMITTED—TIME REQUIREMENTS. (1) Applicants for licensure under chapter 74.15 RCW shall complete the background inquiry form at the time of application.

(2) Employees and volunteers of those licensed or otherwise authorized to provide care under chapter 74.15 RCW shall complete and submit the DSHS background inquiry form to the person licensed or authorized to provide care. This shall be done prior to or as soon as possible after being on the premises and having regular unsupervised contact with children or developmentally disabled persons. The employer, licensee, or authorized person shall submit the properly completed form to the appropriate DSHS licensor or authorizing person within seven calendar days of the time the employee or volunteer had regular unsupervised contact.

(3) The department shall not issue a license or otherwise authorize persons to provide care until they have properly completed and submitted the inquiry form and the results are known to the department; except, such care may be authorized if the inquiry form has been submitted. If a child is placed with a relative under RCW 13.34.060 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement.

NEW SECTION

WAC 388-330-050 RELEASE OF INFORMATION. (1) Release of criminal history information.

(a) Unless there is a signed release of information, the department may only share with a provider:

(i) The criminal inquiry information used to disqualify an employee or volunteer of that provider; or

(ii) The fact the subject is listed on the Washington state patrol's child abuse information file if that is the basis for a disqualification.

(b) The department shall not share any other inquiry information with the provider or provider's employees unless the department withheld licensure or care authorization based on that information.

(2) Release of central registry information.

(a) The department shall not share with care providers or prospective providers any abuse information in the central registry.

(b) Unless there is a release of information signed by the employee, the department may only tell a provider or prospective provider that the results of the department's background inquiry disqualify the employee. Even if the employee has signed a release of information, the department shall not discuss identifying information about the victim of the abuse.

(3) Release of inquiry findings to the subject of inquiry. The department shall provide disqualified care providers with inquiry findings about themselves if the provider:

- (a) Makes the request in writing, and
- (b) Offers proof of identity.

NEW SECTION

WAC 388-330-060 SANCTIONS FOR NON-COMPLIANCE. Any licensee, employer, contractor, or other care provider within the scope of this chapter may be subject to sanctions by the department pursuant to applicable licensing requirements or statutes or contractual agreements for failure to comply with the requirements of this chapter.

WSR 89-07-097
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2778—Filed March 22, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to medications controlled by licensee, amending WAC 388-73-136.

This action is taken pursuant to Notice No. WSR 89-03-025 filed with the code reviser on January 10, 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 74.15.030 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 March 22, 1989.

By Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2445, filed 12/2/86)

WAC 388-73-136 MEDICATIONS CONTROLLED BY LICENSEE. The licensee or responsible designee:

(1) Shall disburse or have access to medications except for self-administered medications as provided under WAC 388-73-138;

(2) Shall disburse medications, prescription and non-prescription, only on the written approval of a parent, person, or agency having authority by court order to approve medical care;

(3) Shall disburse prescription medications:

- (a) Only as specified on the prescription label; or
- (b) As otherwise authorized by a physician or other person legally authorized to prescribe medication.

(4) May disburse the following classifications of non-prescription medications, with parent authorization, only at the dose, duration, and method of administration, specified on the manufacturer's label for the age and/or weight of the child needing the medication:

- (a) Antihistamines;
- (b) Nonaspirin antipyretics/analgesics, fever reducers/pain relievers;
- (c) Nonnarcotic cough suppressants;
- (d) Decongestants;
- (e) Anti-itching ointments or lotions, intended specifically to relieve itching;
- (f) Diaper ointments and powders, intended specifically for use in the diaper area of children; and
- (g) Sun screen.

(5) Shall disburse other nonprescription medications not included in the categories listed in subsection (4) of this section or that are to be taken differently than indicated on the manufacturer's label or for which the label does not provide instruction, only as authorized in writing by a physician or as based on established medical policy approved, in writing, by a physician or other person legally authorized to prescribe medication.

(6) Shall accept from the child's parent, guardian, or responsible relative only medicine in the original container, labeled with:

- (a) The child's first and last names;
- (b) The date the prescription was filled; or
- (c) The medication's expiration date; and
- (d) With legible instructions for administration, i.e., manufacturer's instructions or prescription label.

(7) Shall keep all medications, refrigerated or non-refrigerated ((shall be kept)), in an orderly fashion ((in locked storage or otherwise made)), inaccessible to children((-);

~~((2))~~ (8) Shall store external medications ((shall be stored)) separately ((f)), in separate compartments((-)), from internal medications((-;

~~(3) Medications must be stored in the medication's original container. Any medication container brought into the facility by the parent, guardian, or responsible relative of a child shall be appropriately labeled and have the child's first and last name on it.~~

~~(4) Only the licensee or responsible designee shall disburse or have access to medications except for self-administered medications as provided for in WAC 388-73-138.~~

~~(5) Medications shall be disbursed only on the written approval of a parent or person or agency having authority by court order to approve medical care.~~

~~(6) Prescription medications shall be disbursed only as specified on the prescription label or as otherwise authorized by a physician or other person legally authorized to prescribe medication.~~

~~(7) Except for foster family care and family day care, nonprescription medication shall be disbursed only as authorized by a physician or as based on established medical policy approved by a physician.));~~

~~((8))~~ (9) Except for foster family homes, shall keep a record ((shall be kept)) of all medications disbursed ((and "as needed" medications shall be approved by a

physician or registered nurse prior to disbursement.)); and

~~((9))~~ (10) ~~((Unused))~~ Shall return to the parent or other responsible party medications ~~((shall be properly disposed of or returned to the parent or other responsible party))~~ no longer being taken.

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

WSR 89-07-098

ADOPTED RULES

PARKS AND RECREATION COMMISSION

[Order 89-01-A—Filed March 22, 1989]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Tacoma, Washington, that it does adopt the annexed rules relating to special recreation event permit, new section WAC 352-32-047. The original filing of the CR-8 on March 7, 1989, did not accurately reflect the action taken by the Washington State Parks and Recreation Commission on March 3, 1989. The wording change was not brought to the attention of staff nor the code reviser before the original CR-8 was filed on March 7, 1989. This is a second filing, making a correction to WAC 352-32-047(8) by changing the words the same to a similar.

This action is taken pursuant to Notice No. WSR 89-03-067 filed with the code reviser on January 18, 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 Washington State Parks and Recreation Commission as authorized in RCW 43.51.040 and 43.51.060.

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

APPROVED AND ADOPTED March 22, 1989.

By Jan Tveten
Director

NEW SECTION

WAC 352-32-047 SPECIAL RECREATION EVENT PERMIT. Any person or group, hereinafter referred to as the "applicant," desiring to make use of a portion of a state park for a special recreation event which will require special planning, facilities, staffing, or environmental protection measures, or the closure of the area to, or restriction of, established recreational uses, shall apply for a special recreation event permit. The director or designee may consult with the appropriate local government in reviewing the application and may issue a permit according to the criteria listed below. The permit

may set forth certain conditions including but not limited to the closure of the specified area to other recreational activities, including motor vehicle traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such permit may result in the unreasonable exclusion of recreationists from the remainder of the park. All events authorized under this permit shall be open to public participation and/or observation at the option of the applicant.

In determining whether to issue the permit, the director or designee will review the proposal for consistency with the following criteria:

- (1) The event is consistent with activities that are appropriate for a specific park classification;
- (2) The event will not exceed nor damage facilities or resources or interfere with park operations;
- (3) The event will not disrupt wildlife;
- (4) Past experience has not shown that the applicant has failed to comply with laws or regulations or satisfactory conduct of a previous event;
- (5) The event does not present a clear and present danger to the public health and safety;
- (6) A prior applicant for another event for the same general time and place;
- (7) The event will not unreasonably conflict with all park user's recreational pursuits;
- (8) The event will conform with all of the applicable statutes, rules, policies, and procedures of the commission and instructions of the commission staff who supervise the event.

A special recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for a similar event at the same park during a one-year period.

Persons or organizations that desire to conduct a special recreation event in a state park shall submit a permit application obtainable at any state park and the basic permit application fee of ten dollars to the park where the event is proposed to take place.

Such application shall be submitted at least thirty days in advance of the proposed date of the event, to allow, where applicable, for necessary internal review and analysis, consultation with local governments, public notice, establishment of permit conditions, and required agency preparations and coordination. The director or designee shall approve or disapprove a permit application and establish the conditions for an approved application. The director or designee shall determine the need for any fees necessary to cover costs incurred by the agency for additional staffing, equipment, facilities, or special services not normally provided by state parks, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated with the conduct of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided by the applicant prior to the issuance of the permit.

If additional unanticipated costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover such costs from the bond or damage deposits provided. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

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.

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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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