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filed not later than April 5, 1989

## 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

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of 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.

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# 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 <sup>1</sup>			Distribution Date	First Agency Action Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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
89-02	Dec 7	Dec 21, 1988	Jan 4, 1989	Jan 18	Feb 7
89-03	Dec 21, 1988	Jan 4, 1989	Jan 18	Feb 1	Feb 21
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89-05	Jan 18	Feb 1	Feb 15	Mar 1	Mar 21
89-06	Feb 1	Feb 15	Mar 1	Mar 15	Apr 4
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89-09	Mar 22	Apr 5	Apr 19	May 3	May 23
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89-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
89-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1990

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

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

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

## WSR 89-08-001

## ADOPTED RULES

## DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-01—Filed March 23, 1989—Eff. September 1, 1989]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington 98504, the annexed rules relating to improving the quality of independent medical examinations provided to injured workers.

This action is taken pursuant to Notice No. WSR 89-03-064 filed with the code reviser on January 18, 1989. These rules shall take effect at a later date, such date being September 1, 1989.

This rule is promulgated pursuant to RCW 51.04.020(4) and 51.04.030 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 23, 1989.

By Joseph A. Dear  
Director

AMENDATORY SECTION (Amending Order 88-09, filed 6/24/88)

WAC 296-21-035 INDEPENDENT MEDICAL EXAMINATIONS. (1) Purpose:

Independent medical examinations may be requested by the department, the self-insurer, or the attending physician; this is usually for one of the following purposes:

~~((1))~~ (a) To establish a diagnosis. Prior diagnoses may be controversial or ill-defined~~((:));~~

~~((2))~~ (b) To outline a ~~((basis))~~ program of rational treatment, where treatment or progress is controversial~~((:));~~

~~((3))~~ (c) To establish medical data ~~((to determine if))~~ from which it may be determined whether the medical condition is industrially acquired, or unrelated to industrial work activities~~((:));~~

~~((4))~~ (d) To determine the extent and duration of aggravation of a preexisting medical condition~~((:))~~ by an industrial injury or exposure~~((:));~~

~~((5))~~ (e) To establish when the accepted medical condition has reached maximum benefit from treatment~~((:));~~

~~((6))~~ (f) To establish a percentage rating of any permanent disability, based on the loss of body function or the category rating when maximum recovery is reached~~((:));~~ or

~~((7))~~ (g) To determine the medical indications for reopening of a claim for further treatment on the basis of aggravation of an accepted condition, based on objective findings.

(2) Workers who are scheduled for independent medical examinations are allowed to bring with them an accompanying person to be present during the physical examination. The accompanying person cannot be compensated in any manner, except that language interpreters may be necessary for the communication process and may be reimbursed for interpretative services.

The department may designate those conditions under which the accompanying person is allowed to be present during the independent medical examination process.

~~((An independent medical examination must be specific and factual if accurate and consistent judgment is to be maintained and the result give justice and uniformity:~~

~~The history should be checked for accuracy, variation or exaggeration. Physical findings should be detailed enough to be compatible with the history, diagnosis and conclusions:~~

~~Diagnoses: Must be specific and describe the pathology found and be substantiated by the history and physical findings. (Vague terminology only confuses.)~~

~~Conclusions: Must be specific and definitely express an opinion on the purpose for which the examination was requested. This should be rationalized with the history, physical findings and diagnosis. (Evasiveness, generalizations and omissions frequently render the report misleading or worthless for the intended purpose.)~~

~~Permanent disability: Ratings must be substantiated by sufficient objective findings and medical data to establish the percentage disability rating; also medical logic to demonstrate a definite causal relationship to the accepted industrial conditions on a more probable than not basis:))~~

NEW SECTION

WAC 296-21-037 EXAMINATION REPORTS.

(1) It is the department's intention to purchase objective examinations to ensure that sure and certain determinations are made of all benefits to which the injured worker might be entitled.

The report of an independent medical examination must include the following items:

(a) A detailed chronology of the injury or condition including mechanism of injury, diagnostic studies, and treatments attempted. The chronology must mention the results of treatments and diagnostic studies;

(b) An opinion as to whether treatment actual or proposed is or will be curative or palliative in nature;

(c) An assessment of whether the condition is industrially caused, on a more probable than not basis;

(d) Specific diagnoses sorted into the following categories:

(i) The accepted condition;

(ii) Preexisting conditions, and a statement as to whether they are worsening on their own or are aggravated by the accepted industrially acquired condition; and

(iii) Conditions acquired after the industrial injury.

(e) Answers to written questions posed by adjudicators, or a description of what would be needed to address the questions; and

(f) Conclusions and a summary statement of the objective medical findings upon which the conclusions are based.

(2) Disability ratings are to be done as specified in WAC 296-20-210.

AMENDATORY SECTION (Amending Order 87-18, filed 7/23/87)

WAC 296-21-040 INDEPENDENT MEDICAL EXAMINATIONS SINGLE EXAMINER.

((Unit Value

~~Codes 90640, 90650 have been deleted. To report independent medical examinations by the attending physician or single special examiner (see 90678, 90679).~~

<del>90678</del>	<del>Independent medical examination by a single physician (including examination by the attending physician) requiring the examination and/or evaluation involving loss of function and permanent impairment of a minor nature to a region and/or organ system and requiring a limited history and physical examination</del>	<del>100.0</del>
<del>90679</del>	<del>Independent medical examination by a single physician (including examination by the attending physician) requiring more extensive examination and/or evaluation involving considerable loss of function and permanent impairment to one or more regions and/or organ systems but not requiring a comprehensive history and physical examination</del>	<del>155.0</del>
<del>90694</del>	<del>Independent medical examination by a single physician (including examination by the attending physician) of unusual complexity in excess of scope of examination identified by 90678 and 90679 involving extensive loss of function and permanent impairment necessitating complete history and examination and extensive review of prior medical records, compilation and assessment of data and the preparation of an exceptionally detailed report</del>	<del>225.0</del>
<del>90695</del>	<del>No show independent medical exam, one examiner scheduled</del>	<del>77.5</del>
<del>90696</del>	<del>Conference with department field representative relative to an individual case. (Each fifteen minutes)</del>	<del>16.0</del>

Independent medical examinations must be performed by examiners approved by the department except:

(1) Attending physicians may perform an independent medical examination for an injured worker under their care at the direction of the state fund or self-insurer.

(2) The independent medical examination may be performed by a board certified specialist selected by the department or the self-insurer if the injured worker does not live in Washington, Oregon, or Idaho.

All other examiners who wish to do independent medical examinations for injured workers, whether purchased by the department or by self-insurers, must be listed on an approved list maintained by the medical director of the department.

Examiners must meet standards set by the medical director to be placed on the approved list, and must continue to meet performance standards to remain on the approved list.

Examiners who are suspended from or removed from the approved list for failure to meet the standards will not receive injured worker referrals from the state fund or self-insurers.

Examiners must submit an application to the medical director identifying their areas of expertise.

Examiners must be willing to testify or be deposed at the department fee schedule rate on behalf of the worker, the employer, or the department.

The standards for remaining on the approved list of examiners will take into account repeated complaints about the conduct of the examination.

Complaints from injured workers about the conduct of an independent medical examination must be promptly forwarded from self-insurer and department staff to the office of the medical director of labor and industries.

The standards for independent medical examiners and the application for approved examiner status are available from the Office of the Medical Director, Department of Labor and Industries, Olympia, WA 98504.

AMENDATORY SECTION (Amending Order 87-18, filed 7/23/87)

WAC 296-21-045 INDEPENDENT MEDICAL EXAMINATIONS TWO OR MORE EXAMINERS.

((Unit Value

	<del>(90660, 90670 have been deleted. To report see 90675, 90676, 90677.)</del>	
<del>90671</del>	<del>No show, two examiners scheduled</del>	<del>155.0</del>
<del>90672</del>	<del>No show, extra examiner scheduled; each examiner</del>	<del>77.5</del>
<del>90673</del>	<del>No show, three examiners scheduled</del>	<del>232.5</del>
<del>90674</del>	<del>No show, NOP (neurologist, orthopedist, psychiatrist)</del>	<del>310.0</del>

((Unit Value

- 90675 ~~Independent medical examination with two examiners, not including a psychiatrist, requiring examination and/or evaluation involving considerable loss of function and permanent impairment requiring an extremely comprehensive history and physical examination . . . . . 310.0~~
- 90676 ~~Independent medical examination by three examiners, not including a psychiatrist, involving extensive loss of function and permanent impairment necessitating complete history and examination and extensive review of prior medical records, compilation and assessment of data, and the preparation of an exceptionally detailed report . . . . . 465.0~~
- 90677 ~~Independent medical examination by three examiners including a psychiatrist, involving extensive loss of function and permanent impairment necessitating complete history and physical examination and extensive review of prior medical records, compilation and assessment of data, and the preparation of an exceptionally detailed report . . . . . 620.0~~
- ~~(90690 has been deleted. This service is included in 90675-90679.)~~
- 90680 ~~In complicated or controversial cases where voluminous hard copies of departmental files must be reviewed in connection with an independent medical examination within the scope of examinations identified by 90675, 90676, 90677, 90678, and 90679 an additional fee will be allowed at the discretion of the department . . . . . 40.0~~
- 90681 ~~Additional examiner, not a psychiatrist . . . . . 155.0~~
- 90683 ~~Review of microfiche file on request of department in connection with an independent medical examination: File of less than eight pages . . . . . 40.0~~
- 90684 ~~Review of microfiche file on request of department in connection with an independent medical examination: File of eight pages or more. Each additional page . . . . . 2.5~~
- 90685 ~~Addendum report requested by department or self-insurer for information not requested in original assignment and which necessitates review of records and exam notes . . . . . 40.0))~~

Providers who wish to offer independent medical examinations by two or more examiners must apply for a

panel provider number and meet standards set by the medical director of the department. Examiners working through panels must be on the approved list. Existing panel providers must reapply by July 1989.

**WSR 89-08-002  
ADOPTED RULES**

**DEPARTMENT OF LABOR AND INDUSTRIES**  
[Order 89-01—Filed March 23, 1989—Eff. May 1, 1989]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington 98504, the annexed rules relating to reimbursement and authorization of physical therapy services and occupational therapy services provided to injured workers.

This action is taken pursuant to Notice No. WSR 89-03-064 filed with the code reviser on January 18, 1989. These rules shall take effect at a later date, such date being May 1, 1989.

This rule is promulgated pursuant to RCW 51.04.020(4) and 51.04.030 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.  
APPROVED AND ADOPTED March 23, 1989.

By Joseph A. Dear  
Director

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-23-710 PHYSICAL THERAPY RULES. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of injured workers. See WAC 296-20-125 for billing instructions.

Physical therapy treatment will be ((permitted)) reimbursed only when ((given)) ordered by the injured worker's attending doctor and rendered by a licensed ((registered)) physical therapist or a physical therapist assistant serving under the direction of a licensed ((registered)) physical therapist ((upon the basis of test findings after consultation with and periodic review by an authorized health care practitioner)). Doctor((s)) rendering physical therapy should refer to WAC 296-21-095.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to injured workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either

the sum of the individual fee maximums, the provider's usual and customary charge, or 48 relative value units, whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to injured workers.

Use of diapulse or similar machines on injured workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following 12 treatment visits or one month, whichever occurs first. ~~((Such report must be attached to the billing for services.))~~ Physical therapy treatment beyond initial 12 treatments will be authorized only upon substantiation of improvement in the worker's condition ~~((in terms of functional modalities, i.e.: Range of motion, sitting and standing tolerance, reduction in medication, etc. In addition,))~~. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

~~((Upon justification and subsequent authorization by the department, or self-insurer, physical therapy treatment to separate noncontiguous areas (i.e., low back, knee) requiring individual treatment or special procedures will be allowed at full rate for each area with a maximum of two areas allowed.))~~

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior ~~((justification and))~~ authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

~~((Physical therapy treatments exceeding once per day must be justified by attending doctor.))~~ The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only ~~((, by those R.P.T.'s and L.P.T.'s working under the supervision of a R.P.T.))~~. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of ~~((the R.P.T. or L.P.T.))~~ a licensed physical therapist. See WAC 296-21-0501 for rules pertaining to conditions authorized and report requirements.

## NEW SECTION

WAC 296-23-730 WORK HARDENING. The department will publish billing instructions, reimbursement limits, quality assurance standards, utilization review guidelines, admission criteria, outcome criteria,

measures of effectiveness, minimum staffing levels, certification requirements, special reporting requirements, and other criteria that will ensure injured workers receive good quality services at cost-effective payment levels. Providers will be required to meet the department's requirements in order to qualify as a work hardening provider. The department may also establish a competitive or other appropriate selection process for work hardening providers. Providers should refer to WAC 296-20-12050 regarding special programs.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-23-970 OCCUPATIONAL THERAPY RULES. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of injured workers. See WAC 296-20-125 for billing instructions.

Occupational therapy treatment will be ~~((permitted))~~ reimbursed only when ((given)) ordered by the injured worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist ~~((only upon written orders of a doctor))~~. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by ~~((a))~~ the injured worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition ~~((in terms of functional modality, i.e., range of motion, sitting and standing tolerance, reduction in medication, etc. In addition,))~~. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

~~((Upon justification and subsequent authorization by the department or self-insurer, occupational therapy treatment to separate noncontiguous areas (i.e., low back, knee) requiring individual treatment or special procedures will be allowed at full rate for each area with a maximum of two areas allowed.))~~ The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or 48 relative value units, whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management



program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to injured workers.

Occupational therapy services rendered in the injured worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior ((justification and)) authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

((Occupational therapy treatments exceeding once per day must be justified by the attending doctor:)) The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

#### NEW SECTION

WAC 296-23-990 WORK HARDENING. The department will publish billing instructions, reimbursement limits, quality assurance standards, utilization review guidelines, admission criteria, outcome criteria, measures of effectiveness, minimum staffing levels, certification requirements, special reporting requirements, and other criteria that will ensure injured workers receive good quality services at cost-effective payment levels. Providers will be required to meet the department's requirements in order to qualify as a work hardening provider. The department may also establish a competitive or other appropriate selection process for work hardening providers. Providers should refer to WAC 296-20-12050 regarding special programs.

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-400 HOSPITAL OUTPATIENT PHYSICAL THERAPY RULES. Hospitals should refer to WAC 296-20-010 through 296-20-125 for general information, rules, and billing instructions pertaining to the care of injured workers.

Physical therapy treatment will be ((permitted)) reimbursed only ((upon consultation with and periodic review by an authorized health care practitioner)) when ordered by the injured worker's attending doctor and ((when performed)) rendered by a licensed ((registered)) physical therapist or a physical therapist assistant serving under the direction of a licensed ((registered)) physical therapist.

The department or self-insurer will review the quality and medical necessity of physical therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or 48 relative value units, whichever is less. These limits will not apply to physical therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to injured workers.

Use of diapulse or similar machines on injured workers is not authorized. See WAC 296-20-03002 for further information.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-075 and 296-23A-100 for further information.

Biofeedback treatment may be rendered on physician's orders only((, by R.P.T.'s certified in biofeedback and L.P.T.'s working under the supervision of a certified R.P.T.)). The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of ((the R.P.T. or L.P.T.)) a licensed physical therapist. See WAC 296-21-0501 for rules pertaining to the authorized conditions and the reporting requirements. The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

#### NEW SECTION

WAC 296-23A-430 WORK HARDENING. The department will publish billing instructions, reimbursement limits, quality assurance standards, utilization review guidelines, admission criteria, outcome criteria, measures of effectiveness, minimum staffing levels, certification requirements, special reporting requirements, and other criteria that will ensure injured workers receive good quality services at cost-effective payment levels. Providers will be required to meet the department's requirements in order to qualify as a work hardening provider. The department may also establish a competitive or other appropriate selection process for work hardening providers. Providers should refer to WAC 296-20-12050 regarding special programs.

**WSR 89-08-003**

**ADOPTED RULES**

**HIGHER EDUCATION PERSONNEL BOARD**

[Order 176—Filed March 23, 1989—Eff. May 1, 1989]

Be it resolved by the Higher Education Personnel Board, acting at the Terry-Lander Hall, University of

Washington, Seattle, Washington, that it does adopt the annexed rules relating to:

- New WAC 251-10-070 Separation.
- New WAC 251-10-080 Reasonable accommodation—Reemployment.
- New WAC 251-10-090 Reasonable accommodation reemployment—Probationary period.
- Amd WAC 251-17-090 Examination—Eligibility.
- Amd WAC 251-18-180 Eligible lists—Definition—Composition.
- Amd WAC 251-24-030 Training and development programs—Contents.
- Amd WAC 251-11-100 Dismissal—Union shop—Notice—Recision.
- Amd WAC 251-08-110 Salary—Promotion.
- Amd WAC 251-12-075 Appeals from alleged violations of HEPB law or rules.
- Amd WAC 251-14-110 Arbitration—Collective bargaining impasse—Grievance disputes.

This action is taken pursuant to Notice Nos. WSR 89-01-068, 89-01-069, 89-01-070 and 89-05-043 filed with the code reviser on December 20, 1988, and February 15, 1989. These rules shall take effect at a later date, such date being May 1, 1989.

This rule is promulgated under the general rule-making authority of the Higher Education Personnel Board as authorized in RCW 28B.16.100.

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

APPROVED AND ADOPTED March 2, 1989.

By John A. Spitz  
Director

Chapter 251-10 WAC  
~~RESIGNATION ((AND))~~—LAYOFF—SEPARATION

NEW SECTION

WAC 251-10-070 SEPARATION. (1) An employee unable to adequately perform the work of the employee's position or class due to mental, sensory, or physical incapacity may be separated from service after the institution has made good faith efforts to reasonably accommodate the employee's disability (such as, but not limited to, assessing other positions and/or classes for which the employee may be qualified and assisting in the employment/application process).

(2) A written document which includes the requirements established in WAC 251-10-080 informing the employee of the option to apply for return to employment will be provided prior to separation.

(3) A permanent employee being separated due to disability shall receive a pre-separation notice and meet the requirements as outlined in WAC 251-11-020.

(4) As provided in WAC 251-12-080, a separated employee may appeal his/her separation.

NEW SECTION

WAC 251-10-080 REASONABLE ACCOMMODATION—REEMPLOYMENT. Each institution shall

provide the access to reemployment provided in this section for former permanent classified employees of the institution who have submitted a written request to the personnel officer for reemployment within three years of separation pursuant to WAC 251-10-070. The provisions outlined in this section are requirements of either the former employee or the institution but need not necessarily be performed in the order listed.

(1) To be eligible for reemployment the former employee must:

(a) Complete and submit an application(s) for reemployment;

(b) Submit to the personnel officer a physician's statement affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory, or mental disability of the individual;

(i) The physician's statement must directly reference the duties specified in the job description for the position(s) or class(es) for which the former employee may be qualified;

(ii) If the physician's statement provides inadequate information, the former employee will obtain the necessary clarification from the physician or will provide a release to the institution to communicate directly with the physician regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense;

(iii) The employer may require that the former employee be examined by a physician of the employer's choice and at the employer's expense.

(c) Meet the minimum qualifications and pass the examination for the class(es).

(2) The institution will provide assistance, such as the following, to the individual seeking reemployment under this section:

(a) Assessment of job classes for which the former employee is qualified;

(b) Assistance regarding the employment/application process;

(c) Placement on appropriate eligible lists through the competitive process per WAC 251-17-090(4);

(d) Access to institution staff training programs relevant to job categories for which the former employee might become qualified.

NEW SECTION

WAC 251-10-090 REASONABLE ACCOMMODATION REEMPLOYMENT—PROBATIONARY PERIOD. Former permanent employees returning from separation as set forth in WAC 251-10-070 will serve a probationary period upon appointment.

(1) Upon successful completion of the probationary period, the time between separation and reemployment will be treated as leave without pay and will not be considered a break in service.

(2) If an employee is separated during the probationary period for reasons related to the disability:

(a) The former employee will be restored to the eligible list for other positions within that class and the provisions provided in WAC 251-10-080 will apply;

(b) The former employee will continue to be certified for open positions for other classes for which the individual is already on an eligible list; and

(c) The former employee may also apply for other classes for which the individual is qualified and the provisions provided in WAC 251-10-080 will apply.

**AMENDATORY SECTION** (Amending Order 165, filed 12/30/87, effective 2/1/88)

**WAC 251-17-090 EXAMINATION—ELIGIBILITY.** (1) Open-competitive examinations shall be open to all persons who apply according to the provisions of these rules and meet the minimum qualifications for the class.

(2) Promotional examinations shall be limited to those current permanent employees of the classified service at the institution, and those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080, who apply according to the provisions of these rules and meet the minimum qualifications for the class. The personnel officer may open promotional examinations on either an organizational unit or institution-wide basis, whichever the personnel officer determines to be in the interest of the service.

(3) When the number of qualified applicants for a class in the competitive service is expected to result in an eligible list in excess of the institution's current needs, the personnel officer may limit the applications to be admitted to the intermediate and/or final phase(s) of the examination to those most qualified, based on an assessment of qualifications in the initial and/or intermediate phase(s) of the examination. Such limitation must be specified in the recruitment notice. If no such limitation is specified, all applicants who pass the entire examination shall be placed on the eligible list for the class.

(4) The personnel officer may add members of underutilized groups to all eligible lists, except layoff lists, at anytime in accordance with the institution's affirmative action program as provided in WAC 251-23-040 (7)(b), provided such persons pass the examination for the class. The personnel officer shall also add the names of those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080 to all eligible lists at any time, provided such persons pass the examination for the class.

(5) The personnel officer may add employees who complete institution-approved training programs to the appropriate eligible list at any time, provided such employees meet the minimum qualifications and pass the examination for the class.

**AMENDATORY SECTION** (Amending Order 165, filed 12/30/87, effective 2/1/88)

**WAC 251-18-180 ELIGIBLE LISTS—DEFINITION—COMPOSITION.** Eligible lists shall be established by class as follows:

(1) Institution-wide layoff lists shall contain the names of:

(a) All permanent and probationary employees of the institution laid off or scheduled for layoff in accord with

WAC 251-10-030 and 251-10-055 ranked in order of layoff seniority.

(b) Former permanent employees of the institution who (i) have transferred, promoted, voluntarily demoted or laterally moved to positions at other institutions/related boards, and (ii) have not successfully completed their trial service periods at the institution to which they moved, ranked in order of layoff seniority.

(2) Organizational unit promotional lists shall contain the names of all permanent employees of the organizational unit for which the list is established who have passed the examination for the class(;;). This list shall also contain the names of former employees separated from the organizational unit per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(3) Institution-wide promotional lists shall contain the names of all permanent employees of the institution who have passed the examination for the class(;;). This list shall also contain the names of former employees separated from the institution per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(4) Special employment program layoff lists shall contain the names of permanent employees of the institution laid off, scheduled for layoff or removed from service within a class due to layoff conditions in special employment programs as provided in WAC 251-10-035 ranked in order of layoff seniority.

(5) State-wide layoff lists shall contain the names of permanent employees laid off or scheduled for layoff who have exercised their option per WAC 251-10-060, ranked in order of layoff seniority as provided in WAC 251-10-060(2).

(6) Interinstitutional employee lists shall contain the names of permanent employees of an institution or related board other than the one at which he/she is applying, who have passed the examination for the class, ranked in order of their final examination scores.

(7) Intersystem employee lists shall contain the names of permanent employees under the jurisdiction of chapter 41.06 RCW who have passed the examination for the class, ranked in order of their final examination scores.

(8) Open competitive lists shall contain the names of all other applicants who have passed the examination for the class, ranked in order of their final examination scores.

(9) Noncompetitive lists shall be established per WAC 251-17-040 and shall contain the names of applicants who meet the minimum qualifications and have passed the noncompetitive examination, if any, for the class, ranked by priority in time of filing application.

(10) For positions which meet the HEPB definitions of administrative, executive or professional employees, the personnel officer may combine the organizational unit promotional list, the institution-wide promotional list, the special employment program layoff list, the interinstitutional employee list, the intersystem employee list, the state-wide layoff list, and the open competitive list into a single eligible list:

(a) The combined list option must be specified in the recruitment notice for a class in order for the personnel officer to combine lists for positions in the class;

(b) The combined list shall contain the names of eligibles ranked in order of their final examination scores. Permanent employees of the institution and former permanent employees eligible to return to work pursuant to WAC 251-10-080 shall have a five percent credit added to their final passing scores.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-24-030 TRAINING AND DEVELOPMENT PROGRAMS—CONTENTS. Each institution will develop and maintain on file with the board (subject to approval by the director) an employee training and development plan that provides as a minimum:

(1) The policy and objectives of the institution concerning training and development programs;

(2) The institution's policy regarding training program expenses;

(3) Identification of the person(s) responsible for employee training and development programs;

(4) Provision for the identification and appraisal of training and development needs;

(5) The identification of proposed training activities in the following areas:

(a) New employee orientation;

(b) Functional training, such as in accounting, data processing, office administration and job skills;

(c) System training, such as affirmative action, labor relations and safety;

(d) Professional/technical training;

(e) Management and organizational development;

(f) The institution's off-hour training or continuing education program;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training and upgrading of skills of women and members of racial or ethnic minority groups as part of the institution's affirmative action program, including special training programs to achieve corrective action for underutilization of minority or female employees;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance;

(13) Provision for access to in-house training and development programs for former permanent employees returning from separation as set forth in WAC 251-10-070.

AMENDATORY SECTION (Amending Order 174, filed 11/1/88)

WAC 251-11-100 DISMISSAL—UNION SHOP—NOTICE—RECISION. Appointing authorities shall dismiss an employee(;;) who is employed within a bargaining unit that has a certified union shop representative(;;) when notified by the union shop representative of the employee's failure to comply with union shop requirements per WAC 251-14-058. The employee shall be ~~((furnished with a written notice of the dismissal))~~ given the opportunity to respond to the representative's notification as provided in WAC 251-11-020 before the notice of dismissal is given. If, thereafter, notice is necessary, it shall be furnished in writing to the employee at least fifteen calendar days prior to the effective date of the action. Prior to the effective date, the dismissal shall be rescinded upon the employee's presenting evidence to the appointing authority of compliance with WAC 251-14-058 or that the union shop representative has not complied with WAC 251-14-020(2) or the representation fee or nonassociation fee requirements of WAC 251-14-058.

AMENDATORY SECTION (Amending Order 160, filed 9/30/87)

WAC 251-08-110 SALARY—PROMOTION. An employee who is promoted shall be paid at the salary step which represents ~~((at least))~~ a two-step increase over the salary received immediately prior to the promotion ~~((as determined by the personnel officer. The increase shall be calculated by moving up to the standard range on the current step, moving to that dollar amount on the new standard range, moving over two steps, and down to the salary range for the class)).~~ If the two-step pay increase falls between two steps of the new range, the increase shall be rounded up to the next higher step of the new range. The personnel officer may authorize more than a two-step increase. All promotional increases must be within the salary range for the class.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-075 APPEALS FROM ALLEGED VIOLATIONS OF HEPB LAW OR RULES. Any employee, employee representative or appointing authority desiring to appeal an alleged violation of the higher education personnel law or rules adopted thereunder, may appeal such alleged violation to the board. Such appeal must be in writing and be filed in the office of the director within thirty calendar days after the effective date of the action appealed. The director shall forward the written notice of appeal to the board which shall determine that one of the following actions be taken:

(1) The case may be handled in the same manner as appeals from demotion, suspension, layoff, reduction or dismissal, as provided in WAC 251-12-080 through 251-12-260; or

(2) The director may investigate the case and based upon that investigation issue a determination. Within thirty calendar days of the date of service either party may file written exceptions with the board detailing the specific items of the determination to which exception is taken. A hearing on the exceptions will be scheduled before the board which may ~~((limit argument to the exceptions or may))~~ do one or more of the following:

- (a) Limit argument to the exceptions;
- (b) Request clarification of information upon which the director's determination was based;
- (c) Remand the case for further investigation;
- (d) Rehear the case in its entirety; or

(3) Both parties to the appeal may be requested to submit evidence upon which the board may take action without a hearing.

**AMENDATORY SECTION** (Amending Order 162, filed 9/30/87)

**WAC 251-14-110 ARBITRATION—COLLECTIVE BARGAINING IMPASSE—GRIEVANCE DISPUTES.** (1) When the director or designee is unable to resolve the collective bargaining impasse, the institution or the certified exclusive representative may submit such impasse to the board for arbitration. The board will hold a hearing at which the parties may submit evidence and argument in support of their respective positions.

(2) When the director or designee is unable to resolve a grievance dispute, the exclusive representative, employee or employer may submit such dispute to the board for arbitration. Requests for grievance arbitration must be submitted within thirty calendar days or less from the date the director or designee indicates in writing that the mediation is at impasse. The board, or its designee whose decision is appealable to the board, will hold a hearing at which the parties may submit evidence and argument in support of their respective positions. Written exceptions must be filed within thirty calendar days of the date of service of the designee's order. If both parties agree, the hearing before the board shall be limited to the filed exceptions.

(3) ~~The ((board shall hold such hearings which may be conducted in the same manner as provided for appeals from layoffs, demotions, suspensions, reductions and dismissals, and the))~~ decision of the board shall be final and binding.

The Washington Utilities and Transportation Commission finds that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of the facts constituting such emergency is:

There are presently before the commission at least seven complex contested cases involving multiple private parties of record, each of which requires the sharing of relevant evidence.

Millions of dollars in rates now charged to the public are at stake in these cases. Some cases also involved allegations of ongoing discriminatory or anticompetitive conduct.

If these cases are not processed properly and expeditiously, ratepayers in particular and the public in general may be irreversibly harmed. Even the commission's well established authority to grant refunds to customers has been challenged by a company which resists the commission's regulation.

The same company, which has at least four simultaneous complex cases before the commission, asserts that it is not obligated to fully respond to requests for data by either the commission or proper parties of record.

To enforce the commission's explicit and implicit authority to require production of information from the companies it regulates, in the absence of this rule, may require a costly and time-consuming series of judicial review proceedings, all funded ultimately by the ratepayers of this state. Although the commission will ultimately prevail, these costs may be irretrievable.

As important as the dollar impact of a prolonged series of discovery battles is the degradation of due process. In a proceeding scheduled to be heard March 23, 1989, (in re Metronet, Docket No. U-88-2417-F), the complainant is faced with a commission instruction to respond to reasonable data requests and on-the-record requisitions. Due to respondent's assertion that there must be rules to support the commission's instructions, Metronet is left in doubt as to whether it should comply, and if it does so, whether respondent will do likewise. It is adverse to the public welfare for a party such as Metronet, which is entitled to a fair and speedy hearing, to be left in doubt as to the rules which apply.

The commission does not have the option of halting its operations pending a formal rulemaking. Rate filings now under suspension must be resolved within the ten-month statutory limit. Less than ten months remains on these suspensions, and hearings must begin at once. Cases without statutory deadlines also involve substantive rights. To cancel pending hearings to adopt in rule form the practices which have evolved under the commission's authority would be extremely prejudicial and benefit only those who wish to obstruct the orderly administration of justice.

It will not be contrary to public the interest to proceed without the customary notice and comment procedures for the following reasons:

**WSR 89-08-004**

**EMERGENCY RULES**

**UTILITIES AND TRANSPORTATION  
COMMISSION**

[Order R-290, Docket No. U-89-2748-R—Filed March 23, 1989]

In the matter of adopting WAC 480-08-208 relating to methods for obtaining data in contested cases.

The procedures proposed do not vary from the custom and practice well known to all who appear before the commission. There is no surprise.

The proposed rule included a process for review of disputes by an administrative law judge of the Office of Administrative Hearings, then by the commission. No penalties would attach unless a company refused to comply with an order to produce data.

The findings of emergency is not based on the administrative or fiscal convenience of the agency alone. Rather, there is a serious concern that parties in cases currently pending before the commission receive a fair hearing, including the notion that these cases proceed within statutory time limits. Parties in certain of these pending cases have challenged data production procedures on the basis that the commission first must adopt procedural rules. These challenges have become chronic only recently, and threaten to thwart the hearing process to the detriment of other parties.

This rule-making proceeding is being promulgated pursuant to RCW 80.01.040, 80.04.020, 80.04.070, 80.04.090, 80.04.100, the corresponding sections of chapter 81.80 RCW, RCW 34.04.020 and 34.04.105, and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

This adoption of WAC 480-08-208 affects no economic values.

It has been determined that the above section should be adopted as indicated and as set forth in Appendix A shown below hereto and made a part hereof by this reference.

#### ORDER

WHEREFORE, IT IS ORDERED That the adoption of WAC 480-08-208 as set forth in Appendix A, take effect as an emergency rule of the Washington Utilities and Transportation Commission pursuant to RCW 34.04.030 and 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, and effective this 23rd day of March, 1989.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
A. J. Pardini, Commissioner

#### APPENDIX "A"

##### NEW SECTION

WAC 480-08-208 METHODS FOR OBTAINING DATA IN CONTESTED CASES. (1) General.

*This section identifies certain formal procedures for obtaining data in contested cases. Nothing in this section shall be construed as imposing any limitation whatsoever on the commission's ability to audit and/or obtain the books and records of public service companies, and the public service companies' obligation to provide information to the commission, whether or not in the context of a contested case. Nothing in this section shall be construed as prohibiting any informal data production procedures to which any parties in a contested case may agree.*

(2) Definitions and description of methods.

(a) *Company.* Any public service company subject to regulation by the commission, which is not an intervenor in the contested case.

(b) *Intervenor.* A person allowed to intervene in a contested case.

(c) *Data request.* A written request for data issued by authority of the commission in a contested case. When issued over signature of the secretary of the commission on behalf of the commission staff the data request is typically termed a "staff request". When issued by the assistant attorney(s) general representing the commission in the contested case, the data request is typically termed a "counsel request".

(d) *Intervenor request.* A written request for data submitted by an intervenor in a contested case.

(e) *Company request.* A written request for data submitted by a company.

(f) *Public counsel request.* A written request for data submitted by public counsel.

(g) *Record requisition.* An oral request for data, by a party, made on the record at a hearing in a contested case.

(h) *Requests for data.* Unless used in a different context, "requests for data" means data requests, intervenor requests, company requests, public counsel requests, and record requisitions.

(i) *Clarification proceeding.* A proceeding, instituted by notice at the discretion of the commission in which the evidence of a party, usually the company, is subject to such oral examination as falls within the category of clarifying cross-examination. Such cross-examination is intended to detail the position of the witness(es) and the support for the position of the witness(es). The clarification proceeding is heard before an administrative law judge, and is transcribed. Any evidence produced during such a proceeding is not evidence in the contested case until such time as it is entered into the record.

(j) *Data.* As used in this section, data means information of any type in any form.

(k) *Prefiled evidence.* Prefiled evidence is evidence of a party filed with the secretary of the commission prior to presentation of the evidence on the record. This procedure is also called predistribution.

(3) *When available.* The requests for data and the clarification procedure described in this section shall be available in the context of a contested case when the commission, in its discretion, declares by order or by notice of hearing in the proceeding that such methods shall be available. The commission may make a separate declaration that the clarification procedure or the record

requisition procedure will be utilized. The commission may, in its discretion, revoke its declaration during the course of the contested case.

(4) Procedure. When the commission has indicated that requests for data are available, the procedures for using these methods are as follows:

(a) To whom sent. Data requests, intervenor requests, company requests and public counsel requests shall be in writing, sent to the party of whom the request is made, with copies to all other parties. Neither the commissioners nor the secretary of the commission need receive copies of such requests. The administrative law judge may receive copies if he or she so requests. Record requisitions are made on the record, at hearing.

(b) Receipt of responses. Responses to requests for data shall be sent to the requesting party and to any other party who shall have requested a copy, so long as such responses are consistent with the terms of any protective order which may be entered in the proceeding. Responses are not filed with the secretary of the commission.

The party responding to the request for data shall provide the data requested to the requesting party within ten days of receipt of the request. In the event the data cannot be supplied within ten days, the responding party shall notify the requesting party, in writing and within five days of the request, of the reasons why the ten-day limit cannot be met. In this event, the responding party shall also provide a schedule for producing the requested data.

No response to a request for data shall be considered or treated as evidence until it is entered into the record.

(c) Scope of request. The scope of any request for data to a company shall be for data relevant to the evidence prefiled or presented by the company, or relevant to the issues identified in the notices of hearing or orders in the contested case.

The scope of any request for data to a party other than a company shall be for data relevant to the evidence prefiled or presented by such party.

For good cause shown, the commission may adopt a different standard for the scope of specific requests for data.

(d) Procedure for resolving disputes. If a responding party refuses to produce the data requested, and the requesting party has failed in good faith efforts to resolve the dispute with the responding party, the matter may be brought upon motion filed with the secretary of the commission and presented to an administrative law judge for resolution. If such resolution is unsatisfactory to a party, a motion may be filed with the commission for resolution of the issue.

In determining whether the data should be produced, the relevance of the request for data, the burden on the producing party, and any other pertinent factors will be considered.

## WSR 89-08-005

### PROPOSED RULES

#### STATE EMPLOYEES BENEFITS BOARD

[Filed March 23, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Employees Benefits Board intends to adopt, amend, or repeal rules concerning the amending of WAC 182-12-210, 182-12-127 and 182-08-190;

that the agency will at 1:00 p.m., Wednesday, May 10, 1989, in the Cedar Room, Westwater Inn, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 41.05.065.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 3, 1989.

Dated: March 23, 1989

By: C. H. Shay

Assistant Benefits Manager

#### STATEMENT OF PURPOSE

Amending WAC 182-12-210, 182-12-127 and 182-08-190.

The amendments to WAC 182-12-210 and 182-12-127 are needed to delete the current provisions in subsections (3) and (4) respectively, and to add a provision to deny coverage to those who have other group health plan coverage. The amendment to WAC 182-08-190 revises the name of the SEBB insurance account and more clearly states the one full day work requirement to qualify for the employee contribution.

Responsible for Drafting, Implementation and Enforcement: C. H. Shay, Assistant Benefits Manager, Health Care Authority, 1400 Evergreen Park Drive S.W., Olympia, WA 98504, mailstop FX-11, (206) 753-3096, 234-3096 scan.

Proposed by: State Employees Benefits Board.

Agency Comments: None.

Not necessary due to law or court action.

#### AMENDATORY SECTION (Amending Resolution No. 88-4, filed 9/19/88)

WAC 182-12-127 EXTENSION OF RETIREE DEPENDENTS' ELIGIBILITY. In accordance with federal law, the Consolidated Omnibus Budget Reconciliation Act (COBRA), covered dependents of retirees not otherwise enrolled in ((SEB)) SEBB employer-funded coverage may continue their ((SEB)) SEBB retiree medical and dental coverage by self-payment of premium according to the following guidelines:

(1) In addition to coverage extended to surviving dependents under WAC 182-12-122, enrolled dependents of retirees may continue their coverage for up to thirty-six months following the month in which one of the following qualifying events occur: (a) The retiree becomes divorced, or (b) a child ceases to be a dependent child under the requirements of the plan.

(2) Continuation of coverage may be for medical only or for medical and dental, but not dental only, and each enrolled family member is entitled to make a separate election of these options.

(3) ~~((Coverage continued under this section shall be secondary to any other employer group coverage the person may have))~~ Continuation of coverage shall not be allowed for any dependent who has coverage under any other group health plan or who is entitled to Medicare on a primary basis.

(4) Continued coverage will be terminated when (a) the plan terminates, (b) premium is not paid within the grace period stated in subsection (7) of this section, or (c) the person becomes covered in ~~((SEHB))~~ SEBB employer-funded coverage or any other group health plan, or who becomes entitled to Medicare on a primary basis.

(5) NOTICE REQUIREMENTS:

(a) At the time their coverage commences under the retiree plan, the employer shall provide to each new retiree written notice of the option to continue coverage as stated in this section.

(b) It is the retiree's or dependent's responsibility to notify the employer of the retiree's death, divorce or of a child ceasing to be an eligible dependent within sixty days of the qualifying event.

(c) When the employer learns of any qualifying event the employer must notify the retiree (or surviving dependent) of the rights of this section within fourteen days of the receipt of this information.

(6) ELECTION TO CONTINUE COVERAGE: Enrolled persons must make their election to continue coverage within a period of sixty days following a qualifying event or following the date notice is received from the employer, whichever is later.

(7) PREMIUM REQUIREMENTS: Payment of premium for continued coverage must be made within forty-five days of the date of election. Premium must be paid retroactive to the first of the month following the qualifying event. Thereafter, premiums are due on the first of each month, subject to a thirty-day grace period.

AMENDATORY SECTION (Amending Resolution No. 88-4, filed 9/19/88)

WAC 182-12-210 EXTENDED SELF-PAY MEDICAL AND DENTAL COVERAGE. In accordance with federal law, the Consolidated Omnibus Budget Reconciliation Act (COBRA), employees and dependents not otherwise enrolled in ~~((SEHB))~~ SEBB employer-funded coverage may continue their ~~((SEHB))~~ SEBB medical and dental coverage by self-payment of premium according to the following guidelines:

(1) Employees and/or their enrolled dependents may continue coverage for up to eighteen months following the month in which either of the following qualifying events occur: (a) The employee is terminated (other than by reason of gross misconduct - see WAC 182-12-220 for appeal of dismissal) or (b) the employee would otherwise lose coverage due to reduction in hours of employment.

(2) Enrolled dependents of employees may continue their coverage for up to thirty-six months following the month in which the first of any of the following qualifying events occur: (a) The employee dies (except as provided under WAC 182-12-122), (b) the employee becomes divorced, or (c) a child ceases to be a dependent child under the requirements of the plan. Should more than one qualifying event occur, the maximum period a dependent may continue coverage under this section shall be thirty-six months.

(3) Continuation of coverage may be for medical only or for medical and dental, but not dental only, and each enrolled family member is entitled to make a separate selection of these options.

(4) ~~((Coverage continued under this section shall be secondary to any other employer group coverage the person may have))~~ Continuation of coverage shall not be allowed for any employee or dependent who has coverage under any other group health plan or who is entitled to Medicare benefits on a primary basis.

(5) Continued coverage will be terminated when (a) the plan terminates, (b) premium is not paid within the grace period stated in subsection (8) of this section, ~~((or))~~ (c) the person becomes covered in ~~((SEHB))~~ SEBB employer-funded coverage, any other group health plan or who becomes entitled to Medicare benefits on a primary basis.

(6) NOTICE REQUIREMENTS:

(a) At the time their coverage commences under the plan, the employer shall provide to each new employee written notice of the option to continue coverage as stated in this section.

(b) It is the employee's or dependent's responsibility to notify the employer of the employee's divorce or of a child ceasing to be an eligible dependent within sixty days of the qualifying event.

(c) When the employer learns of any qualifying event the employer must notify the employee (or surviving dependent) of the rights of this section within fourteen days of the receipt of this information.

(7) ELECTION TO CONTINUE COVERAGE: Enrolled persons must make their election to continue coverage within a period of sixty days following a qualifying event or following the date notice is received from the employer, whichever is later.

(8) PREMIUM REQUIREMENTS: Payment of premium for continued coverage must be made within forty-five days of the date of election. Premium must be paid retroactive to the first of the month following the qualifying event. Thereafter, premiums are due on the first of each month, subject to a thirty-day grace period.

AMENDATORY SECTION (Amending Order 2-78, filed 1/10/78)

WAC 182-08-190 EMPLOYER CONTRIBUTION ~~((TO THE SEIB REVOLVING FUND))~~. An employer contribution in the amount established by the board shall be made to the ~~((SEIB revolving fund))~~ SEBB state employees' insurance account for each eligible employee in pay status for ~~((eight or more hours))~~ a total of one full work day during a calendar month, except as provided in WAC 182-12-115 ~~((4))~~(e) with respect to part-time faculty.

**WSR 89-08-006**

**EMERGENCY RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 1998—Filed March 24, 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 restrictions on the use of pesticides in Benton, Franklin, and Walla Walla counties, chapter 16-232 WAC.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in response to repeated herbicide drift problems in the lower Yakima Valley and the Tri-Cities area, emergency measures are necessary to continue restricting the application of pesticides in Benton County and portions of Franklin and Walla [Walla] counties until permanent rules can be adopted.

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

This rule is promulgated pursuant to chapters 17.21 and 15.58 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 24, 1989.

By C. Alan Pettibone  
Director

NEW SECTION

WAC 16-232-440 AREA UNDER ORDER. The area under order shall include:

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

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



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

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

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

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

#### NEW SECTION

WAC 16-232-450 RESTRICTED USE PESTICIDES. For purposes of WAC 16-232-440 through WAC 16-232-490, all pesticides are declared to be restricted use pesticides, except those labeled or used only for the following sites or functions:

- (1) Swimming pools and fountains
- (2) Disinfectants

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

#### NEW SECTION

WAC 16-232-460 PERMITS. (1) Application by air of restricted use pesticides as defined in WAC 16-232-450 is prohibited in Sub-area A designated in WAC 16-232-440(3): PROVIDED, That the department may issue written permits for designated aerial applications.

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

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

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

#### NEW SECTION

WAC 16-232-470 RECORDKEEPING. (1) No portion of this rule shall relieve any commercial applicator, public operator, private-commercial applicator, or demonstration and research applicator from recordkeeping requirements of WAC 16-228-190.

(2) Persons who apply restricted use pesticides as defined in WAC 16-232-450 shall keep records for each application within the area defined in WAC 16-232-440, which shall include the following information:

- (a) Applicator's name, address and name of the individual making the application;
- (b) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application records may omit township, range and section.
- (c) Year, month, day, and time the pesticide was applied;
- (d) Trade name and/or common name of the pesticide applied, and/or EPA registration number for that product;
- (e) Direction and estimated velocity of the wind and temperature at the time the pesticide was applied;

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

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

(h) Acreage or area treated

(3) If an application of a restricted use pesticide as defined in WAC 16-232-450 is performed by a licensed commercial pesticide applicator within the area defined in WAC 16-232-440, the person in control of the treated land shall keep records which shall include the following information:

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

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

(c) Name of the commercial applicator.

(d) Trade name and/or common name and/or EPA registration number of the pesticide applied.

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

(5) All records required by this rule shall be kept for a period of three years from the date of application of the pesticide to which such records refer. The department shall, upon request in writing, be furnished with a copy of such records forthwith by the person required to keep the records: **PROVIDED**, That upon request commercial applicators and public operators shall submit to the department the records required in subsection (2) of this section, and any additional information required in WAC 16-228-190.

#### NEW SECTION

**WAC 16-232-480 REQUIRED RECORDS SUBMISSION.** (1) Application records as defined in WAC 16-232-470 for all aerial applications of restricted use pesticides made in the area under order as defined in WAC 16-232-440 shall be submitted to the Ag Chemical Branch, 2015 So. 1st Street, Yakima, WA 98903, within seven days after the date of application.

(2) Application records as defined in WAC 16-232-470 for all ground applications (including application by means of irrigation systems) of desiccants, defoliant and herbicides, including use of soil fumigants for weed or weed seed control, shall be submitted to the Ag Chemical Branch, 2015 So. 1st Street, Yakima, WA 98903, within seven days after the date of application.

#### NEW SECTION

**WAC 16-232-490 OTHER RULES.** Provisions of WAC 16-232-440 through WAC 16-232-490 shall take precedence over all existing, less restrictive rules of the department affecting the application of pesticides in Benton, Franklin or Walla Walla Counties. No provision of WAC 16-232-440 through WAC 16-232-490 shall be construed as relieving any requirement of existing rules except those in direct conflict.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 16-232-405 Area under order.
- (2) WAC 16-232-415 Restricted use pesticides.
- (3) WAC 16-232-425 Permits.
- (4) WAC 16-232-435 Recordkeeping.
- (5) WAC 16-232-445 Notice of Intent.
- (6) WAC 16-232-455 Other rules.
- (7) WAC 16-232-465 Effective date.

#### **WSR 89-08-007**

#### **NOTICE OF PUBLIC MEETINGS DEPARTMENT OF LICENSING (Real Estate Commission) [Memorandum—March 24, 1989]**

The June 1, 1989, Real Estate Commission meeting to be held at the Silverdale on the Bay Resort has changed location to the Alderbrook Inn Resort, East 7101 Highway 106, Union, WA 98592, (206) 898-2200.

The meeting will commence at 9:00 a.m.

#### **WSR 89-08-008**

#### **ADOPTED RULES DEPARTMENT OF LICENSING [Order PM 827—Filed March 24, 1989]**

I, Mary G. Faulk, director of the Department of Licensing, do promulgate and adopt at 1300 North Quince Street, Olympia, WA, the annexed rules relating to midwifery fees, amending WAC 308-115-405.

This action is taken pursuant to Notice No. WSR 89-05-018 filed with the code reviser on February 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 under the general rule-making authority of the Department of Licensing as authorized in RCW 18.50.135.

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 23, 1989.

By Mary G. Faulk  
Director

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

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

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

Title of Fee	Fee
Certification	25.00
Name or address change	15.00
Real Estate Broker – Branch Office:	
Original license	\$40.00
License renewal	40.00
Late renewal penalty	20.00
Duplicate license	15.00
Name or address change	15.00
Real Estate Salesperson:	
Application/examination	<del>((35.00))</del> \$60.00
Reexamination	<del>((35.00))</del> 60.00
<u>Walk-in for examination</u>	<u>15.00</u>
Original license	35.00
License renewal	35.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
Name or address change	15.00
Land Development Representative:	
Registration	\$20.00

**WSR 89-08-009**  
ADOPTED RULES  
**DEPARTMENT OF LICENSING**  
[Order PM 829—Filed March 24, 1989]

I, Mary G. Faulk, director of the Department of Licensing, do promulgate and adopt at the First Floor Examination Room, 1300 Quince Street, Olympia, WA 98504, the annexed rules relating to the amending of WAC 308-124A-025 and 308-124A-460.

This action is taken pursuant to Notice No. WSR 89-05-057 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 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 21, 1989.

By Mary G. Faulk  
Director

AMENDATORY SECTION (Amending Order PM 673, filed 8/18/87, effective 10/1/87)

WAC 308-124A-460 REAL ESTATE BROKERS AND SALESPERSONS AND LAND DEVELOPMENT REPRESENTATIVE FEES. The following fees shall be charged by the professional licensing division of the department of licensing.

Title of Fee	Fee
Real Estate Broker:	
Application/examination	<del>((50.00))</del> \$60.00
Reexamination	<del>((50.00))</del> 60.00
<u>Walk-in for examination</u>	<u>15.00</u>
Original license	50.00
License renewal	50.00
Late renewal penalty	25.00
Duplicate license	15.00

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.

**WSR 89-08-010**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed March 24, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Gambling Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 230-04-201;

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 (6) and (14).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 12, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-03-066 filed with the code reviser's office on January 18, 1989.

Dated: March 24, 1989  
 By: Frank L. Miller  
 Deputy Director

**WSR 89-08-011**  
**EMERGENCY RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
 [Order 384—Filed March 24, 1989]

Be it resolved by the State Wildlife Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to regulation change for sport fishing on the Skagit River, WAC 232-28-61725.

We, the State Wildlife 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 the harvestable number of wild winter steelhead for the Skagit River system is 2,500 fish. The combined sport and tribal wild catch through March 22 is 2,377. At current catch rates the sport fishery will take the remaining 123 harvestable fish by March 27. Therefore, any further harvest of steelhead on the Skagit system must be restricted to hatchery fish in order to provide adequate spawning escapement of wild steelhead.

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

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 24, 1989.

By Curt Smitch, Director  
 Department of Wildlife

**NEW SECTION**

**WAC 232-28-61725 REGULATION CHANGE FOR SPORT FISHING ON THE SKAGIT RIVER.** *Notwithstanding the provisions of WAC 232-28-617, 1988-90 Washington Game Fish Regulations (Administrative Order 307), on the Skagit River from its mouth to the pipeline crossing at Sedro Wolley (including Fisher Slough west of the Conway-Stanwood Highway), effective 12:01 a.m., March 27 to 12:00 midnight, March 31, 1989, WILD STEELHEAD RELEASE—only steelhead with missing adipose or ventral fins may be possessed. There must be a healed scar in the location of the missing fin. All other provisions of WAC 232-28-617 relating to the Skagit River remain in effect.*

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

**WSR 89-08-012**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order DE 88-56—Filed March 24, 1989]

I, Carol Jolly, assistant director of Water and Shorelands, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Jefferson County, amending WAC 173-19-240.

This action is taken pursuant to Notice No. WSR 89-01-106 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  
 Water and Shorelands

**AMENDATORY SECTION** (Amending Order DE 85-05, filed 4/15/85)

WAC 173-19-240 JEFFERSON COUNTY. Jefferson County master program approved December 20, 1974. Revision approved August 12, 1982. Revision approved July 6, 1983. Revision approved March 7, 1989.

**WSR 89-08-013**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**(Development Loan Fund Committee)**  
 [Memorandum—March 24, 1989]

Listed below is the schedule for the Department of Community Development, Development Loan Fund Committee meetings for 1989.

February 16, 1989  
 May 18, 1989  
 August 17, 1989  
 November 16, 1989

**WSR 89-08-014**  
**ADOPTED RULES**  
**LIQUOR CONTROL BOARD**  
 [Order 277, Resolution No. 286—Filed March 27, 1989]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98503-2531, that it does

adopt the annexed rules relating to musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services, employees of amusement device companies, security officers, fire fighters and law enforcement officers employment, WAC 314-16-075.

This action is taken pursuant to Notice No. WSR 89-04-025 filed with the code reviser on January 25, 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 Liquor Control Board as authorized in RCW 66.08.030.

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

APPROVED AND ADOPTED March 15, 1989.

By Paula C. O'Connor  
 Chairman

**AMENDATORY SECTION** (Amending Order 197, Resolution No. 206, filed 8/26/86)

WAC 314-16-075 MUSICIANS, DISC JOCKEYS, SOUND OR LIGHTING TECHNICIANS, PERSONS PERFORMING JANITORIAL SERVICES, EMPLOYEES OF AMUSEMENT DEVICE COMPANIES, SECURITY OFFICERS, FIRE FIGHTERS AND LAW ENFORCEMENT OFFICERS EMPLOYMENT. Pursuant to the provisions of (~~chapter 250, Laws of 1969 ex. sess. (1)~~) RCW 66.44-316(~~1~~), professional musicians (~~(18)~~) eighteen years of age and older are permitted to enter and to remain in liquor licensed establishments during and in the course of their employment as musicians. The following definitions and requirements shall be applicable.

(1) Definitions:

(a) The term "professional minor musician" shall be construed as a person between (~~(18 and 21)~~) eighteen and twenty-one years of age who is employed to perform in his or her capacity as a musician at a retail liquor licensed establishment.

(b) The term "professional minor musician" shall include a person who plays a musical instrument and/or is a vocalist, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys.

(c) To assure that the professional minor musician employed is engaged for that purpose, he or she shall be compensated at a rate not less than the minimum wage provided for by state law.

(2) Areas in licensed establishments where professional minor musicians may perform:

(a) Professional minor musicians during their performance shall, except as provided in (b) and (c) of this subsection, remain on the stage or bandstand of the licensed premises.

(b) The style of a "strolling musician" or a group of "strolling musicians" may be utilized in licensed establishments.

(c) Disc jockeys and sound and lighting technicians may enter and remain on the licensed premises, in such locations as required, during and in the course of their employment.

(3) Areas where professional minor musicians may remain when not performing:

(a) Prior to commencing a performance; at breaks or intermissions during the performance; and after concluding a performance, professional minor musicians shall be permitted only: On the stage or bandstand; in a private room or separate area on the premises in which no liquor is served; or in areas where minors are permitted under the licensee's minor classification ((f))(for example, in the restaurant section of a Class H licensed premises((f))).

(b) Professional minor musicians are permitted to enter and remain on the licensed premises not more than one hour prior to the start of their performance, in order to set up their equipment and tune their musical instruments, and to remain not more than one hour after concluding their performance in order to properly secure their equipment.

~~(4) ((Responsibilities of licensees:~~

~~(a) Licensees having board authorization for live music and wishing to employ professional minor musicians shall have available for inspection by the board, or any peace officer, at all reasonable times, a current list of professional minor musicians employed at the licensed premises. Such list shall be retained for a period of 30 days after termination of employment and shall designate the following information with respect to each minor:~~

~~(i) True name and professional or stage name, if any.~~

~~(ii) Permanent resident address and temporary address, if any.~~

~~(iii) Date and place of birth.~~

~~(iv) Mother's maiden name; father's name.~~

~~(v) Social Security number.~~

~~(vi) Terms of the agreement of employment.~~

~~(b)) Licensees shall at all times provide adequate supervision in order to insure that there will be neither the sale of nor the supplying of any alcoholic beverages to professional minor musicians, and that professional minor musicians will not be permitted to consume alcoholic beverages at any place on the premises.~~

(5) Responsibilities of professional minor musician:

(a) Professional minor musicians shall at all times during the course of their employment on licensed retail premises have with them documents available for inspection which disclose their true age and date of birth.

(6) Practice sessions — "jam sessions":

(a) Practice sessions involving professional minor musicians shall not be permitted on licensed premises.

(b) "Jam sessions" involving professional minor musicians shall not be permitted on any licensed premises unless the participants are being paid for such "jam sessions" in accordance with subsection (1)(c) of this ((regulation)) section.

(7) Persons eighteen years of age and older performing janitorial services may enter and remain on premises licensed under the provisions of Title 66 RCW during the hours when there is no sale, service, or consumption

of liquor on the premises (or in the area being cleaned), but only during and in the course of their performance of janitorial services.

(8) Employees of amusement device companies or companies which are in the business of installing, maintaining, and repairing amusement devices, which employees are eighteen years of age or older, may enter and remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices.

(9) Security officers, fire fighters and law enforcement officers eighteen years and over are permitted to enter and remain on premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment or official duties and only if they are not the direct employees of the licensee. Provided, however, that security officers access to classified portions of liquor licensed premises is limited to only isolated incidents arising in the course of their duties.

#### WSR 89-08-015

#### PROPOSED RULES

#### HIGHLINE COMMUNITY COLLEGE

[Filed March 27, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Highline Community College intends to adopt, amend, or repeal rules concerning the college's policy and basis for administrative procedures which allow community and other organizations to use the college facilities;

that the institution will at 10:00 a.m., Thursday, May 11, 1989, in the Board Room, Building 25, Highline Community College, Des Moines, Washington, conduct a public hearing on the proposed rules.

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

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

The specific statute these rules are intended to implement is RCW 28B.50.140(13).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 11, 1989.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Edward M. Command, Vice-President  
Highline Community College  
2400 South 240th  
P.O. Box 98000  
Des Moines, WA 98198-9800  
(206) 878-3710 (203)

Dated: March 21, 1989  
By: Edward M. Command  
Vice-President

### STATEMENT OF PURPOSE

Title and Number of Rule Chapter and Sections: Chapter 132I-136 WAC, Use of facilities; WAC 132I-136-100 Purpose; 132I-136-110 Right to deny use of facilities; 132I-136-120 Basis of fee assessment; 132I-136-130 Application procedures; 132I-136-140 Supervision during activity; 132I-136-150 Care and maintenance of facilities and equipment; 132I-136-160 Athletic facilities; and 132I-136-170 Liability for damage.

Statutory Authority: RCW 28B.50.140.

Specific Statute that Rule is Intended to Implement: RCW 28B.50.140(13).

Summary of the Rules: These rules describe the college's policy and the basis for administrative procedures which allow community and other organizations to use the college facilities.

Reasons Supporting the Proposed Rule: These rules replace existing rules to more accurately reflect the college's policy for use of facilities.

Agency Person Responsible for Drafting, Implementation and Enforcement of Rule: Edward M. Command, Vice-President, Highline Community College, 2400 South 240th Street, P.O. Box 98000, Des Moines, WA 98198-9800, 878-3710.

This rule is not proposed to comply with federal law or federal or state court action.

Use of facilities  
132I-136 WAC

### NEW SECTION

WAC 132I-136-100 PURPOSE. The trustees of Highline Community College believe that educational and community service opportunities are extended to the community when the college's buildings, grounds, and facilities are made available for use by the students, faculty, administration, staff, and the community. This use shall not interfere with regular college activities and shall be in accordance with the public interest, welfare, laws of the State of Washington, and in the best interest of the college as interpreted by the administration of Highline Community College and/or the board of trustees.

Intended or actual use in conflict with these policies or construed to be in any way detrimental to the College's best interests and/or original intent for that facility are strictly prohibited.

### NEW SECTION

WAC 132I-136-110 RIGHT TO DENY USE OF FACILITIES. (1) The trustees reserve the right to deny facility use to individuals or groups of a private nature whose activities, be they secret or otherwise, are inconsistent with the open and public nature of Highline Community College and where such use would conflict with the purpose of state and federal laws against discrimination.

(2) If at any time actual use of college facilities by the individual or group constitutes an unreasonable disruption of the normal operation

of the college, such use shall immediately terminate, all persons engaged in such use shall immediately vacate the premises, and leave the college property upon command of the appropriate college official.

(3) Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations. The college reserves the right to deny use of college facilities to any individual or group whose past conduct indicates a likelihood that college rules and regulations will not be obeyed.

(4) No single group shall be allowed use of facilities on a regular or continuing basis.

### NEW SECTION

WAC 132I-136-120 BASIS OF FEE ASSESSMENT. (1) The basis for establishing and charging use fees reflects the college's assessment of the present market, the cost of operations, and an evaluation of the intended purpose and its relationship to the purposes of this college. The board of trustees feels that groups or organizations affiliated with the college should be permitted access to facilities at the lowest charge on the fee schedule which may include complimentary use. A current fee schedule is available to interested persons from the office of continuing education.

(2) The college does not wish to compete with private enterprise. Therefore, the college reserves the right to deny applications for facility use when the administration and/or the board of trustees feels a commercial facility can be patronized. At no time shall facility use be granted for a commercial activity at a rental rate, or upon terms, less than the full and fair rental value of premises used.

### NEW SECTION

WAC 132I-136-130 APPLICATION PROCEDURES. (1) At least seven college working days prior to date of intended use of any college facility, an authorized representative of the requesting organization must submit proper and complete written application of a use of facility form which may be obtained through the college's office of community services. A single application may be sufficient for a series of meetings by an organization unless those meetings vary significantly in some substantive way; then separate applications will be required.

(2) Upon approval of the application, an authorized representative of the using organization shall sign the rental agreement. By affixing a signature as representing the using organization, the signatory specifies he or she has authority to enter into agreement on behalf of the organization and if the organization fails to pay the amount due, the signatory becomes responsible for all charges which may include interest payment for overdue accounts as specified on the rental form but not less than one percent per month.

(3) Large events, events requiring expenditures on the part of the college, or where significant areas are blocked out for the renter, a minimum of up to fifty percent (50%) advance deposit may be required at the time of application.

(4) The college reserves the right to make pricing changes without prior written notice.

(5) Use of a facility is limited to the facilities specified on the agreement.

(6) The priorities for facility use place primary emphasis on regular college events and activities. The board of trustees reserve the right to cancel any permit and refund any payments for use of college facilities and equipment when they deem such actions advisable and in the college's best interests.

(7) In the event of a cancellation of a facility use permit by the applicant, that organization is liable for all college costs and expenses in preparing the facility for their use.

(8) The decision to issue permits is based on the assumption that any admission charges are to be specified and approved by the college.

(9) Organizations using Highline Community College's facilities shall conduct all activities in accordance with all applicable local, state, and federal laws including the rules and regulations adopted by Community College District 9.

### NEW SECTION

WAC 132I-136-140 SUPERVISION DURING ACTIVITY. (1) Signatories of the rental agreement as well as adult organization leaders are responsible for group conduct and are expected to remain with their group during activities. When the use of special facilities makes it necessary that supervision be provided, the trustees reserve the right to

require a staff member represent the college at any activity on Highline Community College facilities. Such service shall be paid at the current rate, by the organization requesting use of the facility (see WAC 132I-136-160), and does not relieve the organization from safeguarding the college's property.

(2) The security staff or some other authority of the college will open and lock all rented facilities. Keys to buildings or facilities will not be issued or loaned on any occasion to any using organization with the exception of keys to designated off-campus locations.

#### NEW SECTION

WAC 132I-136-150 CARE AND MAINTENANCE OF FACILITIES AND EQUIPMENT. (1) College-owned equipment shall not be removed from college facilities for loan or rental. Organizations wishing to use equipment in connection with a rental should make arrangements through the office of continuing education at the time of application. Further rental and operational restrictions may be outlined when the application is approved.

(2) Appropriate equipment is expected when using facilities where the absence of such special equipment may be detrimental to that facility (e.g. tennis shoes must be worn on gymnasium floors).

(3) Organizations allowed use of facilities are required to leave premises in as good condition as when the organization was admitted to its use. After facility use, organizations are required to arrange for proper disposal of decorations and other refuse when restoring the facility to its original condition for resumption of college use.

(4) Custodial and other services beyond those regularly scheduled to support normal college activities may be required for specific activities by outside groups, based on the size of group, the complexities of the event, or the facilities being used. Needed custodial services beyond that normally scheduled will result in that organization being charged at the established rate. All extra custodial time required as a result of the organization's use of the facility will be charged to the organization, including those receiving complimentary usage.

(5) The security staff should be contacted for problems with facilities. The security staff will be alert to any permit violations.

(6) All moving of college equipment for facility use will be under permission and supervision of the college.

(7) Any decoration or use of facility that may result in permanent damage or injury to the facility is strictly prohibited.

#### NEW SECTION

WAC 132I-136-160 ATHLETIC FACILITIES. (1) Highline Community College playing fields may be used by community members and groups provided such use does not interfere with regular college activities and that proper permits for use of college grounds have been secured for activities other than unorganized casual use.

(2) Highline Community College allows only highly restricted use in scheduling swimming pool. Permitted users shall comply with all pool regulations, as determined by the college. Such regulations may vary based on the anticipated use. Applications should be made on a use of facility form obtained through the college's office of continuing education. A condition of rental is the college's right to stipulate the number of guards and to select and hire these guards on its own criteria. Cost of usage will include these employee's salaries and other personnel expenses.

(3) The pavilion may be used by community organizations subject to the same restrictions and regulations governing the use of other facilities. Because of the size of the facility, most users will be required to have college personnel on site during usage. Cost of usage will include these employee's salaries and other personnel expenses.

#### NEW SECTION

WAC 132I-136-170 LIABILITY FOR DAMAGE. The lessee of college facilities, including agreement signatories and individual organization leaders, shall be liable for any damage to college property occurring or having apparently occurred during the time the facility was being used by the organization. The lessee also agrees to hold harmless and indemnify Highline Community College, its agents, employees, officers, trustees, students and/or attorneys for any claim made against the college as a result of the lessee's use of college facilities. The college reserves the right to require using organizations to purchase insurance, naming the college as the insured, and may specify the amount of that insurance.

#### REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 132I-136-010	BASIS OF POLICY AND PROCEDURES.
WAC 132I-136-020	NONPUBLIC USE OF FACILITIES.
WAC 132I-136-030	BASIS OF FEE ASSESSMENT.
WAC 132I-136-040	APPLICATION PROCEDURES.
WAC 132I-136-050	SUPERVISION.
WAC 132I-136-060	CARE AND MAINTENANCE.
WAC 132I-136-070	ATHLETIC FACILITIES.
WAC 132I-136-080	UNPERMITTED USAGE.

#### **WSR 89-08-016**

#### **ADOPTED RULES**

#### **HIGHLINE COMMUNITY COLLEGE**

[Order 023—Filed March 27, 1989]

I, Edward M. Command, vice-president of Highline Community College, do promulgate and adopt at Highline Community College, the annexed rules relating to the amending of chapter 132I-120 WAC, Student rights and responsibilities, to ensure complete compliance with concerns and suggestions raised by the Joint Administrative Rules Review Committee. These modifications adjust procedures for processing administrative withdrawal of students having mental disorders.

This action is taken pursuant to Notice No. WSR 89-04-039 filed with the code reviser on January 31, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 28B.50-.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 9, 1989.

By Edward M. Command  
Vice-President

#### **STUDENT RIGHTS AND RESPONSIBILITIES**

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-315 RIGHT OF ASSEMBLY. (1) Students have the right to conduct or may participate in any assembly as defined in WAC 132I-120-030(1) on facilities that are generally available to the public provided that such assemblies:

- (a) Are conducted in an orderly manner;
- (b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or regular functions of the college;
- (c) Do not unreasonably interfere with pedestrian or vehicular traffic; or
- ~~((d) Do not cause mental, verbal, or physical abuse of another person in the college community; or~~



~~(e))~~ (d) Do not cause destruction or damage to college property, including library materials, or private property on college facilities.

(2) Any student group or student organization which wishes to schedule an assembly must reserve the college facilities in the office of the coordinator of student activities.

(3) Assemblies which violate these rules may be ordered to disperse by the college in accordance with Washington state statutes.

(4) ~~((A student who fails to disperse when an assembly is ordered to disperse, in accordance with Washington state statutes, is subject to disciplinary action:))~~ A non-student who violates any provision of the rule will be referred to civilian authorities for criminal prosecution.

#### AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-400 AUTHORITY AND RESPONSIBILITY FOR DISCIPLINE. (1) The board of trustees acting in accordance with Washington state statutes does by written order delegate to the president of the college authority to administer disciplinary action. All disciplinary action in which there is a recommendation that a student be suspended or expelled from the college shall be acted upon by the president as defined in WAC 132I-120-030 (1)(g). ~~((The president shall have no authority to delegate this decision:))~~

(2) Administration of the disciplinary procedure is the responsibility of the dean of students.

(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be so serious as to result in expulsion from the class, the instructor must report the infraction in writing to the dean of students at the earliest opportunity.

(4) The student has the right to appeal any disciplinary action of an instructor to the dean of students.

(5) Students bringing children on campus are governed by existing state laws concerning their responsibility for the children.

#### AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-405 VIOLATIONS. (1) No college disciplinary action shall be imposed on a student except in accordance with these rules.

(2) Student performance reflecting honest and reliable behaviors is necessary in order to make an accurate appraisal of the student's competencies. Any test-taking behavior observed which may be interpreted by the test proctor as a violation of test confidentiality will result in the test being removed from the student; the consequences of such behavior will be determined on an individual basis by the instructor/faculty and can result in dismissal from the course with a failing grade. Some examples of unacceptable behavior during an exam include but are not limited to:

(a) Talking, whispering or otherwise interacting with another student;

(b) Using notes or books unless authorized by instructor;

(c) Looking at another student's test or test answers.

(3) Written assignments and/or electronic media assignments need to reflect original and appropriately referenced content. Electronic media includes, but is not limited to, computers, word processors and audio-visual equipment. Any falsification of the student's work is viewed seriously by the college. The consequences of such behavior will be determined on an individual basis by the instructor/faculty and can result in dismissal from the course with a failing grade.

(4) Disciplinary action may result from the commission or from the aiding or abetting of violations on college facilities or of the commission or omission in violation of civil or criminal law on college facilities such as:

(a) All forms of dishonesty including, but not limited to, knowingly furnishing false information to the college, and ~~((foregoing))~~ forging, altering or using college documents or instruments of identification with intent to defraud.

(b) Verbal or physical abuse of any person or conduct which unlawfully threatens movement or bodily harm or endangers the health or safety of any person.

(c) Destruction, damage, or misuse of college property or private property including library materials.

(d) Theft or conversion of college property or private property.

(e) Unauthorized use or access to college computers and other electronic media.

(f) Conduct which unreasonably disrupts the educational process of the college as defined in Washington state statutes.

(g) Lewd or indecent conduct as defined by Washington state statute.

(h) Disorderly conduct.

(i) Failure to comply with lawful directions of college personnel acting in performance of their duties.

(j) Interference by force or violence, or by threat of force or violence, with any administrator, faculty member, or student of the college who is in the peaceful discharge or conduct of his or her duties or studies.

(k) Possession, consumption, or furnishing of alcoholic beverages.

(l) Possession, consumption, or furnishing of any narcotic drug or dangerous drug as ~~((currently))~~ defined by law ~~((or hereinafter amended:))~~ except when use or possession is prescribed by an authorized medical doctor or dentist.

~~((m) Failure to disperse when an assembly is ordered to disperse as defined by Washington state statute:))~~

~~((n))~~ (m) Disobedience to the notice against trespass as defined in accordance with Washington state statute.

~~((o))~~ (n) Failure to comply with the following regulations governing firearms and weapons:

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, such as a dagger, sword, knife, or any other cutting or stabbing

instrument or club or any other weapons apparently capable of producing bodily harm and/or property damage is prohibited on or in college facilities.

(ii) Explosives, incendiary devices, or any weapon facsimile are prohibited on or in college facilities.

(iii) It shall be the policy of the college that carrying of firearms on college facilities is prohibited except and unless the firearm is registered with the campus security for a specific period of time that the firearm is carried on campus.

(iv) The above regulations shall not apply to equipment or material owned, used, or maintained, by the college; nor will they apply to law enforcement officers.

~~((p))~~ (o) Violation of published college regulations including those related to entry and use of college facilities, the rules in these rules, and any other regulations which may be enacted with these rules.

~~((3))~~ (5) All rules hereinafter approved by the board pursuant to preceding Washington state statutes shall be in writing and shall be published, or posted in such a manner as to furnish adequate notice of their contents to students affected by such rules.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-410 DEFINITION OF DISCIPLINARY ACTION. The following disciplinary action may be imposed upon students according to the procedure outlined in WAC 132I-120-420.

(1) Admonition: An oral statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Warning: Notice in writing that continuation or repetition of conduct deemed wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions upon the student's continued attendance and warning the student that further misconduct may subject him/her to dismissal.

(4) Restitution: Reimbursement for damage to or misappropriation of property. This may take the form ~~((or))~~ of appropriate service or other compensation.

(5) ~~((Involuntary a))~~ Administrative withdrawal: Exclusion from classes and other privileges or activities in accordance with WAC 132I-120-430.

(6) Interim emergency withdrawal: Exclusion from classes and other privileges or activities in accordance with WAC-132I-120-425.

(7) Suspension: Exclusion from classes and other privileges or activities as set forth in the notice for a definite period of time.

(8) Dismissal: Termination of student status for an indefinite period of time. Conditions of reinstatement, if any, shall be stated in the order of dismissal.

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

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-425 EMERGENCY WITHDRAWAL. (1) An interim emergency withdrawal may be implemented immediately by the president, upon recommendation of the dean of students, if the dean of students determines that a student's behavior poses an imminent danger of:

(a) Causing serious physical harm to the student or others; or,

(b) Causing significant property damage, or directly and substantially impeding the lawful activities of others.

(2) A student subject to an interim emergency withdrawal shall be given written notice of the suspension either by personal delivery or by certified mail, to include a copy of these standards and procedures. An interim emergency withdrawal shall specify the length of term of the withdrawal and/or the conditions for reinstatement. The student shall have the right of appeal to the discipline committee in accordance with WAC 132I-120-435 or in the case of a mental disorder or suspected mental disorder may initiate ~~((involuntary))~~ administrative withdrawal procedures in accordance with WAC 132I-120-430.

(3) Any student subject to an interim emergency withdrawal shall be given an opportunity to appeal personally before the dean of students, or designee, within two days from the effective date of the interim emergency withdrawal, in order to review the following issues only:

(a) The reliability of the information concerning the student's behavior;

(b) Whether or not the student's behavior poses a danger of causing imminent, serious physical harm to the student or others, causing significant property damage, or directly and substantially impeding the lawful activities of others.

(4) As a result of the meeting between the dean of students and the student, the dean of students may:

(a) Recommend to the president either continuation or termination of the interim emergency withdrawal;

(b) Initiate disciplinary procedures in accordance with WAC 132I-120-420 or;

(c) Initiate ~~((involuntary))~~ administrative withdrawal procedures in accordance with WAC 132I-120-430.

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

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-430 ~~((INVOLUNTARY))~~ ADMINISTRATIVE WITHDRAWAL. (1) A student may be subject to ~~((involuntary))~~ administrative withdrawal from Highline Community College if it is determined that the student is suffering from a mental disorder, and, as a result of the mental disorder:

(a) Engages, or threatens to engage, in behavior which poses a danger of causing physical harm to self or others; or

(b) Engages, or threatens to engage, in behavior which would cause significant property damage, or directly and unreasonably impede the lawful activities of others.

(2) These standards do not preclude disciplinary action in accordance with provisions of other portions of these rules.

(3) A student accused of violating college disciplinary regulations may be diverted from the standard disciplinary process and withdrawn in accordance with the provisions of WAC 132I-120-430, if the student voluntarily introduces or wishes to introduce relevant evidence of any mental disorder and, as a result of mental disorder:

(a) Lacks the capacity to respond to pending disciplinary charges; or

(b) Did not know the nature or wrongfulness of the conduct at the time of the offense.

(4) Students subject to disciplinary charges who wish to voluntarily introduce relevant evidence of any mental disorder must so inform the dean of students in writing at least two days prior to any disciplinary hearing. If the dean determines that the evidence may have merit, the case shall be resolved in accordance with the standards and procedures specified in WAC 132I-120-430. Thereafter, if it is determined that the student does not meet the criteria set forth in WAC 132I-120-430(3), the case will be returned to the standard disciplinary process. Evidence of any mental disorder may not be admitted into evidence or considered by the dean of students or the College Discipline Committee in any disciplinary proceeding.

(5) The dean of students may recommend that a student receive a mental health evaluation by any competent mental health professional, if the dean reasonably believes that the student may meet the criteria set forth in WAC 132I-120-430(1), or if a student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder.

(6) Students wishing to introduce evidence of a mental disorder shall be given five days to complete the mental health evaluation, unless an extension is granted by the dean in writing. Days shall be counted from either the date on which the dean recommended an evaluation or from the date on which the student requested to introduce evidence of a mental disorder.

(7) Any pending disciplinary action may be withheld until the evaluation is completed, in the discretion of the dean of students.

(8) An informal hearing, as provided in WAC 132I-120-430(9), will be held within ten days after either the student has been evaluated by the appropriate mental health professional or the student has requested such a hearing. Students who have been withdrawn on an interim emergency withdrawal will remain withdrawn on an interim basis pending completion of the informal hearing, but will be allowed to enter upon the campus to attend the hearing, or for other necessary purposes, as authorized in writing by the dean of students.

(9) Students subject to an ((involuntary)) administrative withdrawal shall be accorded an informal hearing before the dean of students, or a designee. The following guidelines will be applicable:

(a) Students will be informed of the time, date, and location of the informal hearing, in writing, either by personal delivery or certified mail, at least two days in advance.

(b) The entire case file, including an evaluation prepared pursuant to WAC 132I-120-430(5), and the names of prospective witnesses, will be available for inspection by the student in the dean of student's office during normal business hours. The file, which should be available at least two days before the informal hearing, need not include the personal and confidential notes of any institutional official or participant in the evaluation process.

(c) The informal hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The dean of students or designee shall exercise active control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.

(d) The student may choose to be assisted by a family member and a competent mental health professional, or, in lieu of a mental health professional, by a member of the faculty or staff of the institution. Furthermore, the student may be accompanied by legal counsel, although the role of counsel will be limited to providing legal advice to the student.

(e) Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant evidence.

(f) Whenever possible, the student will be expected to respond to questions asked by the dean or designee. Students who refuse to answer on the grounds of the Fifth Amendment privilege may be informed that the dean or designee could draw a negative inference from their refusal which might result in their dismissal from the institution, in accordance with these standards and procedures.

(g) The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.

(h) The mental health professional who prepared the evaluation pursuant to WAC 135I-120-430(5) procedures may appear at the informal hearing, and respond to relevant questions, upon request of any party, if the dean or designee determines that such participation is essential to the resolution of an issue in the case.

(i) The dean or designee may permit a college official, and the mental health professional who prepared the evaluation, to appear at the informal hearing and to present evidence in support of any withdrawal recommendation. Such evidence will not be presented by legal counsel for the college.

(j) The informal hearing shall be tape recorded by the dean or designee. The tape(s) shall be kept with the pertinent case file for as long as the case file is maintained by the institution.

(k) A written recommendation to the president shall be rendered by the dean or designee within five days after completion of the informal hearing. The president shall have five working days to make a final decision.

The president's written decision, which should be mailed or personally delivered to the student, should contain a statement of reasons for any determination leading to ((involuntary)) administrative withdrawal and the length of time of the administrative withdrawal as determined by the President, upon the advice of mental health professionals. The student should also be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement.

(I) ~~((The decision of the president shall be final and conclusive and not subject to appeal.))~~ All decisions under these proceedings are subject to the same rights and appeals as other informal decisions.

(10) Reasonable deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.

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

### WSR 89-08-017

#### NOTICE OF PUBLIC MEETINGS INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

[Memorandum—March 28, 1989]

At its March 23, 1989 meeting, the Interagency Committee for Outdoor Recreation (IAC) revised its meeting schedule for 1989.

The regular scheduled meeting of July 20-21, 1989, was rescheduled as a special meeting to take place May 18-19, 1989, in the Seattle metropolitan area.

### WSR 89-08-018

#### INDETERMINATE SENTENCE REVIEW BOARD

[Filed March 28, 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.

#### 1.150 Sexual Harrassment Policy

Pursuant to Executive Order 89-01, the Indeterminate Sentence Review Board hereby reaffirms and updates its policy regarding sexual harrassment as follows:

It is the public policy of the State to provide and maintain a working environment free from sexual harrassment for its employees and all citizens participating in State programs. Sexual harrassment is a form of sex discrimination and is an unlawful employment practice under State and Federal law.

Sexual harrassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harrassment is absolutely prohibited. Any employee of the Agency who engages in such activity will be subject to disciplinary action, up to and including termination.

The Agency is committed to responding promptly and effectively to sexual harrassment concerns/complaints. Any employee who feels that he/she is being sexually harrassed should report the behavior immediately to his/her supervisor. If the supervisor is not responsive or if the employee feels uncomfortable talking to their supervisor for any reason, he/she should contact the Chair of the Board, the Personnel Representative, or anyone else in the Agency with authority to act.

Employees may file a complaint with the Washington State Human Rights Commission as a violation of RCW 49.60 or with the Federal Equal Employment Opportunity Commission as a violation of Title VII of the Civil Rights Act of 1964.

The Agency will continue to sponsor periodic training of employees in order to prevent sexual harrassment in the workplace.

**Reviser's note:** The spelling errors in the above material appeared in the original copy of the Indeterminate Sentence Review Board and appear herein pursuant to the requirements of RCW 34.08.040.

### WSR 89-08-019

#### PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed March 29, 1989]

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

- |     |                |   |
|-----|----------------|---|
| Amd | ch. 16-212 WAC | Grain, hay, beans and peas—Inspection fees. |
| Amd | ch. 16-224 WAC | Designations of warehouse stations.         |
| Amd | ch. 16-225 WAC | Field-stored hay.                           |

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 24, 1989.

The authority under which these rules are proposed is chapter 22.09 RCW.

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 29, 1989

By: J. Allen Stine  
Assistant Director

### STATEMENT OF PURPOSE

Title: Chapter 16-212 WAC, Grain, hay, beans and peas—Inspection fees; chapter 16-224 WAC, Designation of warehouse stations; and chapter 16-225 WAC, Field-stored hay.

Description of Purpose: To update the rules to conform with current license and legislative requirements.

Statutory Authority: Chapter 22.09 RCW.

Summary of Rules: The proposed rule changes will reference specific sections of the act that governs license warehousemen and dealers. They will allow the use of additional forms of security; define the specific commodities covered; outline provisions to operate without a bond; provide for combining various locations into one station; and delete references to hay which is no longer covered under this statute.

Reason Supporting Proposed Activities: The proposed rules are in direct response to changes made in the act, specifically requiring the adoption of rules to implement, to update existing rules recognizing combined warehouse locations and deleting rules no longer in use.

Agency Personnel Responsible: Elmer D. Gibbons, Program Manager, Grain Warehouse Audit Branch, Washington State Department of Agriculture, P.O. Box 11559, Parkwater Station, Spokane, Washington, 99211, phone (509) 456-2739.

Person or Organization Proposing Rule, Whether Public, Private or Governmental: Warehouse Audit Program, Washington State Department of Agriculture.

Agency Comments: None.

These rules are not made necessary as a result of federal law or federal/state court action.

Small Business Economic Impact Statement: This agency has determined that there will be no economic impact upon small businesses in the state of Washington by the adoption of these new rules.

### NEW SECTION

WAC 16-212-087 COVERED COMMODITIES. Commodities covered under chapter 22.09 RCW in respect to storage and/or merchandising shall include wheat, barley, oats, field corn, popcorn, rye, triticale, grain sorghum, soybeans, sunflowers, flax, buckwheat, rapeseed, safflower, millet, mustard, dry peas, dry beans, lentils, malt, and the by-products resulting from conditioning the above commodities.

### AMENDATORY SECTION (Amending Order 1802, filed 7/19/83)

WAC 16-212-110 BONDS. (1) A bond of not less than fifty thousand dollars nor more than seven hundred fifty thousand dollars shall be required for each warehouseman and dealer licensed pursuant to chapter 22.09 RCW, the Washington Warehouse Act. The bond amount shall be computed at the rate of eighteen cents per bushel of licensed storage capacity or six percent of gross sales of agricultural commodities, whichever is higher.

(2) For purposes of this section, gross sales include only sales of agricultural commodities purchased from producers covered under the act during the preceding fiscal year of that dealer.

(3) Grain dealers who purchase less than one hundred thousand dollars annually from producers may petition the director for exemption from the bond requirements. A grain dealer who is granted exemption must:

(a) Pay for the commodity at time of taking possession by:

(i) Coin or currency.

(ii) Cashier's check.

(iii) Certified check.

(iv) Bank draft.

(b) Dealers must make and keep a copy of the contract, scale ticket and check or draft. All documents must be complete and show the actual date of the transaction. If paid for in coin or currency, a receipt must be issued and signed and dated by the producer.

### AMENDATORY SECTION (Amending Order 1802, filed 7/19/83)

WAC 16-212-230 CERTIFICATES OF DEPOSIT, LETTERS OF CREDIT, LIFE INSURANCE. A certificate of deposit, irrevocable letter of credit or assignment on a life insurance policy issued to the department in lieu of a bond shall not be released, canceled or discharged until three years after cancellation of the license unless the department determines that no outstanding claims exist for the subject period.

### AMENDATORY SECTION (Amending Order 1820, filed 4/26/84)

WAC 16-224-010 COMBINING CERTAIN WAREHOUSES INTO STATIONS. The department of agriculture will allow the following warehouses to combine certain warehouses into stations as follows:

(1) ~~((ACM Feed & Grain, Inc., is combining Prosser, and Hogue Ranch into one station - Prosser 722.~~

(2)) Almira Farmers Warehouse Company is combining North Almira, South Almira, Highland, Govan, Almira, Hanson, Marlin, and Hartline into one station - Almira 179.

((+)) (2) Almota Elevator Company is combining Port Almota, Union Center, and Mockonema into one station - Port Almota ((+87)) 185.

((+)) (3) Auvil-Warner Company, Inc., is combining Belmont, ((Sokuk,)) and Warner Siding into one station - Belmont 245.

((+)) (4) BNP Lentil Company is combining Farmington, ((Oakdale,)) Pigeon Hollow Farm, and ((Garfield)) Belmont into one station - Farmington 43.

((+)) (5) Berger & ((Plate, Inc.)) Company, A ConAgra Company, is combining ((Tekoa, Titma, and Garfield)) Basin City, Merrills Corner, Toppenish, Othello, and Royal City into one station - ((Tekoa 477)) Basin City 23.

(6) CENEX LTD, dba Full Circle is combining Wheeler, Warden, Quincy, Bruce, Trinidad, and Glade into one station - Wheeler 887; and is combining Othello and Venner into one station - Othello 820.

(7) ((CENEX is combining Othello, Eltopia, and Venner into one station - Othello 820.

(8)) Central Washington Grain Growers, Inc., is combining Almira, Hanson, Hartline, Coulee City, Grand Coulee, Withrow, Supplee, Waterville, Farmer, Douglas, Alstown, Mansfield, Brewster, ((and)) Wenatchee, and Krupp into one station - Waterville 852.

((+)) (8) Cheney Grain Growers, Inc., is combining Cheney and Rodna into one station - Cheney 330.

((+)) (9) Columbia Bean & Produce Company, Inc., is combining Wheeler, Block 89, Royal Slope, Homestead, Quincy, Bruce, ((Toppenish)) Sunnyside, Basin City, and Mattawa into one station - Wheeler 282.

(10) Columbia County Grain Growers, Inc., is combining Dayton, Turner, Whetstone, Huntsville, Longs Siding, Alto Siding, Starbuck, Powers, Relief, Delaney, and Lyons Ferry into one station - Dayton 898.

(11) Columbia Producers, Inc., is combining Warden((;)) and Royal City((, Whiting Farm, and Howard Kister Farm)) into one station - Warden 19.

(12) Connell Grain Growers, Inc., is combining Frischnecht, Connell, Mesa, Eltopia, Sulphur, Hatton, Burbank, and Kahlotus into one station - Connell 770.

(13) Davenport Union Warehouse Company is combining Davenport, Mondovi, Omans, Hunters, and Ritzville into one station - Davenport 289.

((+)) Edwall Grain Growers, Inc., is combining Edwall, Canby, Waukon, Sprague, and Edens into one station - Edwall 4.

~~((14))~~ Empire Seed Company is combining Othello, Royal Camp, and Royal City into one station - Othello 256.

~~((15))~~ ((14)) Eppich Grain ((Inc.)) Company is combining Royal Slope ((and)), Basin City, and Othello into one station - ((Royal Slope)) Basin City 28.

~~((16))~~ ((15)) Fairfield Grain Growers, Inc., is combining Fairfield, ((and)) Waverly, and Warner Siding into one station - Fairfield 525.

~~((17))~~ ((16)) Fuhrman's Feed & Farm Supply Company is combining Kettle Falls, Colville, Chewelah, and Nelson Barn into one station - Kettle Falls 46.

~~((18))~~ Full Circle, Inc., is combining Wheeler, Warden, Quincy, Bruce, Royal City, and Trinidad into one station - Wheeler 887.

~~((19))~~ ((17)) The Garfield Union Warehouse Company is combining Garfield, Grinnell, Walters, Crabtree, Elberton, and Eden into one station - Garfield 24.

~~((20))~~ ((18)) Graingrowers Warehouse Company is combining Wilbur and Ritzville into one station - Wilbur 384.

~~((21))~~ Inland Empire Milling Company is combining Pine City, St. John, and Pleasant Valley into one station - St. John 706.

~~((22))~~ ((20)) Inland Empire Pea Growers Association, Inc., is combining Oakesdale, Garfield, Latah, Spangle, Waverly, West Fairfield, Fairfield, ((and)) Spokane, and Spangle Creek into one station - Spokane 220.

~~((23))~~ ((21)) Johnson Union Warehouse Company, Inc., is combining ((Johnston)) Johnson, Colton, and Chambers into one station - ((Johnston)) Johnson 645.

~~((24))~~ ((23)) Kittitas Farm Storage Company is combining Kittitas, Ellensburg, and Thrall into one station - Kittitas 250.

~~((25))~~ ((22)) Lacrosse Grain Growers, Inc., is combining Lacrosse, Pampa, Gordon, Hooper, Schreck, Hay, and Dusty into one station - Lacrosse 131.

~~((26))~~ ((23)) Lamont Grain Growers, Inc., is combining Lamont and Revere into one station - Lamont 476.

~~((27))~~ ((26)) Lentils, Inc., is combining Warner Siding and Oakesdale into one station - Warner Siding 32.

~~((28))~~ ((24)) Logan Feed, Inc., is combining Wapato, Harrah, and Toppenish into one station - Toppenish 104.

~~((29))~~ ((28)) M & E Seed & Grain Co. is combining Prosser, Mabton, and D & E Feed into one station - Prosser 744.

~~((30))~~ ((26)) Oakesdale Grain Growers, Inc., is combining Oakesdale, Seabury, Fairbanks, Warner, Farmington, and Seltice into one station - Oakesdale 71.

~~((31))~~ ((29)) Odessa Trading Company is combining Odessa, Ruff, Batum, Moody, Schmierer, and Warden into one station - Odessa 342.

~~((32))~~ ((30)) Odessa Union Warehouse Co-op is combining Odessa, Irby, Lamona, Lauer, Reiman, Jantz, Schoonover, Packard, Harrington, Mohler, Downs, Davenport, Egypt, Rocklyn, and Ephrata into one station - Odessa 305.

~~((33))~~ ((31)) Pendleton Grain Growers, Inc., is combining Prosser((;)) and Whitstran((; and Wycoff Farms)) into one station - Prosser 648.

~~((34))~~ ((32)) The Pillsbury Company is combining Basin City, Merritts Corner, and Toppenish into one station - Basin City 23.

~~((35))~~ ((33)) Perfection Seed, Inc., is combining Walla Walla and Martin's Elevator into one station - Walla Walla 705.

~~((36))~~ ((31)) Pomeroy Grain Growers, Inc., is combining Pomeroy, Zumwalt, Dodge, and Central Ferry into one station - Pomeroy 400.

~~((37))~~ ((34)) Pomeroy Warehouse & Feed Company, is combining Pomeroy, Gould City, and Central Ferry into one station - Pomeroy 853.

~~((38))~~ ((35)) Prairie Grain ((Company)), Inc., is combining ((Vista)) Tilma, Seltice, and ((Pasco)) Garfield into one station - ((Vista 688)) Tilma 689.

~~((39))~~ ((36)) Quincy Farm Chemicals, Inc., is combining Quincy, and Royal Slope into one station - Quincy 29.

~~((40))~~ ((37)) RR Warehouse, Inc., is combining Ritzville, Spokane, Moses Lake, Pasco, and Eltopia into one station - Ritzville 794.

~~((41))~~ ((36)) Reardan Grain Growers, Inc., is combining Reardan, Gravelle, Eleanor, Hite, and Espanola((; and Spokane)) into one station - Reardan 455.

~~((38))~~ ((37)) Ritzville Warehouse Company, Inc., is combining Ritzville, Tokio, Ralston, Marcellus, Bengé, Maier, and Keystone into one station - Ritzville 295.

~~((39))~~ ((38)) River Grain Inc., is combining Vista, Pasco, and Eltopia into one station - Vista 688.

~~((40))~~ ((39)) Rockford Grain Growers, Inc., is combining Mead, Rockford, Freeman, Mt. Hope, Worley, ((and)) Setters, and Spangle into one station - Rockford ((196)) 1.

~~((41))~~ ((40)) Rosalia Producers, Inc., is combining Rosalia, Plaza, Spring Valley, McCoy, Balder, Spangle, Squaw Canyon, Pine City, and Central Ferry into one station - Rosalia 415.

~~((42))~~ ((41)) St. John Grain Growers, Inc., is combining St. John, Ewan, Willada, Juno, Sunset, and Pleasant Valley into one station - St. John 534.

~~((43))~~ ((42)) Spokane Seed Company is combining Spokane, Colfax, Plaza, ((and)) Setters, and Cashup into one station - Spokane 452.

~~((44))~~ ((43)) ((Sunnyside Grain Inc., is combining Sunnyside, Mabton, and Ashue Siding into one station - Sunnyside 2;)) Stalene Processors Inc., is combining Tilma, ID, Tilma, WA, Tekoa, Tensed, ID, and Farmington into one station - Tekoa 138.

~~((45))~~ ((44)) Touchet Valley Grain Growers, Inc., is combining Waitsburg, Coppei, Bolles, McKay, Menoken, Whetstone, Prescott, Harsha, and Jensen Corner into one station - Waitsburg 780.

~~((46))~~ ((45)) Union Elevator & Warehouse Company, Inc., is combining Lind, Pizarro, Schrag, Paha, Pence, Bauer, R. H. Phillips, ((and)) Beatrice, and Moses Lake into one station - Lind 474.

~~((47))~~ ((45)) Uniontown Co-operative Association is combining Uniontown, and Leon((; and Wilbur-Gutch)) into one station - Uniontown 430.

~~((48))~~ ((46)) United Grain Growers, Inc., is combining Harrington, Mohler, Downs, Bluestem, Canby, Edwall, Waukon, Edens, Sprague, Wilbur, Sherman, Wheatridge, Govan, Creston, ((Richardson Farm;)) and ((Phillips Ranch)) Baldwin Farms into one station - Harrington 807.

~~((49))~~ ((47)) Wallace Grain & Pea Company is combining Palouse and Steptoe into one station - Palouse 195.

~~((50))~~ ((49)) Walla Walla Grain Growers, Inc., is combining Walla Walla, Baker-Langdon, Dixie, Port Kelly, Sapolil, Tracy, Valley Grove, Spring Valley, Reser, Miller, Gardena, Clyde, Eureka, Pleasant View, Sheffer, Smith Springs, Rulo, Dry Creek, Ennis, Paddock, and Wallula into one station - Walla Walla 462.

~~((51))~~ ((48)) Washtucna Grain Growers, Inc., is combining Washtucna, Sperry, Fletcher, and Sand Hills into one station - Washtucna 653.

~~((52))~~ ((49)) Wheat Growers of Endicott, Inc., is combining Endicott, Thera, and Winona into one station - Endicott 524.

~~((53))~~ ((50)) Whitman County Growers, Inc., is combining Cashup, Glenwood, Manning, Mockonema, Steptoe, Thornton, Colfax, Albion, Ewartsville, Fallon, Parvin, Whelan, Pullman, ((Kitzmitter;)) and ((Gravel)) Rock Pit into one station - Colfax 74.

~~((54))~~ ((51)) Wilbur - Ellis Company is combining Conway and Burlington into one station - Conway 896.

~~((55))~~ ((54)) Wilson Creek Union Grain & Trading Company is combining Stratford, Wye Station, and Wilson Creek into one station - Wilson Creek 354.

~~((56))~~ ((55)) Wolfkill Feed & Fertilizer Corp. is combining Moses Lake and Mattawa into one station - Moses Lake 14.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-225-001	PROMULGATION.
WAC 16-225-010	LICENSE FEE.
WAC 16-225-020	BOND.
WAC 16-225-030	STORAGE REQUIREMENTS.
WAC 16-225-040	WAREHOUSE RECEIPTS.
WAC 16-225-050	REPORTS.

**WSR 89-08-020**  
**ADOPTED RULES**  
**DEPARTMENT OF AGRICULTURE**  
**(Wheat Commission)**  
 [Order 1999—Filed March 29, 1989]

Be it resolved by the Washington Wheat Commission, acting at the Wheat Commission Office, West 905 Riverside Avenue, Spokane, WA, that it does adopt the annexed rules relating to wheat, chapter 16-528 WAC.

This action is taken pursuant to Notice No. WSR 89-04-049 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 chapters 15.66 and 43.03 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 29, 1989.

By Wayne F. Klindworth  
 Chairman

**AMENDATORY SECTION (Amending Marketing Order, Article II, effective 4/30/58)**

**WAC 16-528-020 WHEAT COMMISSION—STRUCTURE—POWERS, DUTIES—PROCEDURE.**

(1) Establishment and membership. A wheat commission is hereby established to administer this marketing order and shall be composed of five members who shall be producers elected as provided in this section and two members who shall be appointed by the elected producer members. In addition, the director shall be an ex officio member of the commission.

(2) Representative districts. The affected area shall be divided into the five following districts:

**District I—One commission member**

- 
- Ferry County
  - Lincoln County
  - Pend Oreille County
  - Spokane County
  - Stevens County

**District II—One commission member**

- 
- Whitman County

**District III—One commission member**

- 
- Asotin County
  - Columbia County
  - Garfield County
  - Walla Walla County

**District IV—One commission member**

- 
- Adams County
  - Chelan County
  - Douglas County
  - Grant County
  - Okanogan County

**District V—One commission member**

- 
- Benton County
  - Franklin County
  - Kittitas County
  - Klickitat County
  - Yakima County

Each district shall nominate one or more nominees but elect one commission member only.

(3) Membership qualifications. Commission members shall be citizens and residents of this state, over the age of twenty-five years. Producer members of the commission shall be producers of wheat in the district in and for which they are nominated and elected. The qualifications of producer members of the commission as herein set forth must continue during their term of office.

(4) Term of office—Initial commission. The term of office of commission members shall be three years from the date of their election and until their successors are elected and qualified. The terms of office for the initial commission members shall be as follows:

Districts I and II shall terminate December 31, 1958.

Districts III and IV shall terminate December 31, 1959.

District V shall terminate December 31, 1960.

One appointed member's term shall terminate December 31, 1959.

The second appointed member's term shall terminate December 31, 1960.

The appointed members of the initial commission shall be elected by a majority of the elected commissioners at the first meeting.

(5) Nomination and election of commission members.

(a) Nomination and election of commission members shall be as set forth in the act and specified by the director. Dates will be set as follows:

(i) Nominating petitions shall be sent not earlier than September 17th and not later than October 2nd of each year in the district wherein a vacancy will occur. Nominating petitions shall be signed by not less than five affected producers of the district from which such a candidate will be elected.

(ii) Filing of nominating petitions shall be mailed to the director not earlier than October 8th and not later than October 13th of each year.

(iii) Ballots will be mailed to all producers in the district wherein a vacancy will occur, not earlier than October 18th and not later than November 2nd of each year.

(iv) Ballots shall be returned not later than December 2nd of such year.

(b) With respect to the initial wheat commission, the director shall call for nominations with the notice of his final decision following the hearing. The ballot for the

election of commissioners shall be secret and shall be forwarded to the producers at the same time the director's proposed marketing order is mailed to the producers for their assent.

(6) Vacancies.

(a) To fill any vacancy occasioned by the failure to qualify of any person elected by the producers as a member of the commission, or in the event of the death, removal, resignation or disqualification of any member, the director shall call for nominations and conduct such election within the district wherein the vacancy occurred, in the manner provided in subsection (5) of this section.

(b) To fill nonelective vacancies caused by other reasons than the expiration of the term, the new members shall be elected by the commission at its first meeting after the occurrence of the vacancy.

(7) Powers and duties of commission. The commission shall have the powers and duties, as specified under RCW 15.66.140, and shall include but not be limited to the following:

(a) To collect the assessments of producers as provided in this marketing order and to expend the same in accordance with, and to effectuate the purposes of the act, and this marketing order.

(b) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this marketing order during each fiscal year.

(c) To accept and receive gifts and grants and expend same.

(8) Procedure for commission.

(a) The commission shall, by resolution, establish a headquarters which shall continue as such unless and until so changed by the commission, at which headquarters shall be kept the books, records and minutes of the commission meetings.

(b) The commission shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by the resolution of the commission.

(c) The commission shall hold an annual meeting at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the wheat commission at least ten days prior to the meeting, through the regular wire news services and radio-television press.

(d) The commission shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: PROVIDED, HOWEVER, That the notice of any special meeting may be waived by a waiver thereof signed by each member thereof.

(e) Any action taken by the commission shall require the majority vote of the members present, provided a quorum is present.

(f) A quorum of the commission shall consist of at least five members.

(g) No members of the commission shall receive any salary or other compensation from the commission, except that each member shall receive an amount not to exceed (~~(\$20.00 per day)~~) the amount as allowed in

RCW 43.03.230, as it exists now or as hereafter amended, for each day spent in actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence, lodging, and ((travel)) mileage expense allowed by ((law to state employees)) RCW 43.03.050 and 43.03.060 as authorized by RCW 15.66.130, the Enabling Act of 1955.

**WSR 89-08-021**

**PROPOSED RULES**

**DEPARTMENT OF NATURAL RESOURCES**

[Filed March 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Natural Resources intends to adopt, amend, or repeal rules concerning minimum standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land description.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 9, 1989.

The authority under which these rules are proposed is chapter 58.24 RCW.

The specific statute these rules are intended to implement is RCW 58.24.040(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 5, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-01-076 filed with the code reviser's office on December 20, 1988.

Dated: March 29, 1989

By: James A. Stearns  
Supervisor

**STATEMENT OF PURPOSE**

**Purpose and Implementation:** To establish minimum performance levels for land boundary surveys and geodetic control surveys and to provide guidelines for the preparation of land descriptions.

Adopting Agency: Department of Natural Resources.

Statutory Authority: RCW 58.24.040(1).

**Summary of Rule and Reasons Therefor:** These rules establish minimum performance levels for land subdivision, corner restoration, geodetic control surveys, survey maps, and land boundary surveys. The issues regulated are document content, field work accuracy and documentation of professional decisions. Additionally, guidelines for the preparation of land descriptions are provided. These rules are promulgated "to provide a means for the identification and preservation of survey points for the description of common land boundaries in the interest of the people of the state" (RCW 58.24.010).

Agency Personnel Responsible for Drafting: Mike Kinnaman, Survey Manager, Engineering Division, Department of Natural Resources, 1102 South Quince, EV-11, Olympia, WA 98504, (206) 586-6047 and Donnell R. Fitch, Unit Manager, Public Land Survey



Unit, Engineering Division, Department of Natural Resources, 1102 South Quince, EV-11, Olympia, WA 98504, (206) 586-6034; Implementation: Department of Natural Resources, John A. Cherberg Building, Olympia, Washington 98504; and Enforcement: Board of Registration for Engineers and Land Surveyors, P.O. Box 9649, Olympia, Washington 98504.

Proponents: Surveys and Maps Advisory Board; Land Surveyors Association of Washington; Chair, County Auditor's Recording Committee; Title Association offered no objections; County Auditors Association - no objections; and Board of Registration of Engineers and Land Surveyors.

Opponents: A small number of individual surveyors.

Agency Comments: The Board of Registration for Engineers and Land Surveyors has stated there is a need for minimum performance standards. Such standards allow them to more equitably regulate the surveying profession.

Economic Impact Statement: There are several provisions within these rules that may cause some surveyors or auditors to change their current practices. Some of these changes may result in increased costs. Since these costs are not consistent throughout the industry, it is not possible to calculate their impact. However, the above identified proponents feel any cost increases will be insignificant and offset by an improved service to the public by the surveying profession.

Chapter 332-130 WAC  
((SURVEY STANDARDS)) MINIMUM STANDARDS FOR  
 LAND BOUNDARY SURVEYS AND GEODETIC CONTROL  
 SURVEYS AND GUIDELINES FOR THE PREPARATION OF  
 LAND DESCRIPTIONS

WAC	
332-130-010	Authority.
332-130-020	Definitions.
332-130-030	Land subdivision and corner restoration standards—Recording.
332-130-040	Land description ((requirements—General)) guidelines.
332-130-050	((Land description requirements—Specific items)) Survey map requirements.
332-130-060	((Survey map requirements)) Geodetic control survey standards.
332-130-070	((Field traverse standards for land surveys)) Survey standards—Transition period.
332-130-080	((Geodetic control survey standards)) Relative accuracy—Principles.
332-130-090	Field traverse standards for land boundary surveys.
332-130-100	Equipment and procedures.

AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-010 AUTHORITY. The department of natural resources, in accordance with ((the authority defined in paragraph 1,)) RCW 58.24.040((, does herewith)) and 58.17.160, prescribes the following regulations setting minimum standards for land boundary surveys and geodetic control surveys and providing guidelines for the preparation of land descriptions.

AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-020 DEFINITIONS. ((As used for these rules,)) The following definitions shall apply to this chapter:

(1) ((Land boundary surveys. All surveys whether made by private persons or entities or public bodies of whatsoever nature for the specific purpose of establishing or reestablishing the boundary of any lot, tract or parcel of real property in the state of Washington;

(2)) Geodetic control surveys: Surveys for the specific purpose of establishing control points for extending the ((Lambert grid net and)) National Geodetic Survey horizontal and vertical control nets, establishing plane coordinate values on ((primary cadastral)) boundary monuments within the requirements of the Washington coordinate system, ((as defined in chapter 58.20 RCW;)) and determining the vertical elevations of boundary monuments.

((3)) (2) GLO and BLM: The General Land Office and its successor, the Bureau of Land Management.

(3) Land boundary surveys: All surveys, whether made by individuals, entities or public bodies of whatever nature, for the specific purpose of establishing, reestablishing, laying out, subdividing, defining, locating and/or monumenting the boundary of any easement, right of way, lot, tract, or parcel of real property or which reestablishes or restores General Land Office or Bureau of Land Management survey corners.

(4) Land corner record: The record of corner information form as prescribed by the department of natural resources pursuant to chapter 58.09 RCW.

(5) Land description: A description of real property or of rights associated with real property.

(6) Land surveyor: ((Shall mean every)) Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW((, as now or hereafter amended;)).

((4) Land survey: Shall mean the locating and monumenting, in accordance with sound principles of land surveying by or under the supervision of a licensed land surveyor, of points or lines which define the exterior boundary or boundaries common to two or more parcels or which reestablish or restore general land office or bureau of land management survey corners;

(5)) (7) Parcel: A part or portion of real property including but not limited to GLO segregations, easements, rights of way, aliquot parts of sections or tracts.

(8) Survey Recording Act: The law as established and designated in chapter 58.09 RCW.

(9) Washington coordinate system: ((Shall mean that)) The system of plane coordinates as established and designated by chapter 58.20 RCW(;

(6) Public record: Shall be the system of records maintained by the bureau of surveys and maps, the county auditors and such other agencies as may be officially designated and by law assigned the responsibility of maintaining a record of such information available to the general public during normal working hours;

(7) The Survey Recording Act: Shall mean chapter 50, Laws of 1973, (chapter 58.09 RCW) as now or hereafter amended;

(8) GLO and BLM: Means the general land office and its successor; the bureau of land management)).

AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-030 LAND SUBDIVISION AND CORNER RESTORATION STANDARDS—RECORDING. The following ((minimum standards shall apply to land subdivision)) requirements apply when a land boundary survey is performed:

(1) ((The subdivision of a section shall conform to the rules prescribed for official U.S. government surveys of the public lands and instructions relating thereto, and/or applicable federal or state court decisions relating thereto;

(2) Section subdivision and line data shall be shown on the record of survey to the extent necessary to support the position of any subdivisional corner used to reference a surveyed parcel and to justify the location of the parcel boundary therein; except where a section subdivision is a matter of public record, then reference may be made to that record and only so much of the section subdivision as is necessary to properly orient the surveyed parcel need be shown;

(3) Every general land office or bureau of land management survey mark or corner controlling a surveyed parcel shall be documented and recorded as required by the Survey Recording Act, unless the corner and its accessories are substantially as described in an existing record conforming to the provisions of this section on file with the county auditor and the bureau of surveys and maps. The documentation of any GLO or BLM corner shall include at least three substantial references to the corner mark placed in such a manner that they are not likely to be destroyed along with the corner. A valid set of coordinates on the Washington coordinate system may serve as one of the three required references.)) The reestablishment of lost GLO or BLM corners and the subdividing of sections shall be done according to applicable GLO or BLM plats and field notes and in compliance with the rules as set forth

in the appropriate GLO or BLM Manual of Surveying Instructions, manual supplements and circulars. Federal or state court decisions that influence the interpretation of the rules should be considered. Methods and data used for such corner reestablishment or section subdivision shall be stated on filed or recorded documents.

(2) All maps, plats, or plans showing a land boundary survey shall show all the corners found, established, reestablished and calculated, including corresponding directions and distances, which were used to survey and which will be necessary to resurvey the parcel shown. Additionally, all such maps, plats, or plans shall show sufficient section subdivision data, or other such controlling parcel data, necessary to support the position of any section subdivisional corner or controlling parcel corner used to reference the parcel surveyed. Where a portion or all of this information is already shown on a record filed or recorded in the county recording office of the county in which the parcel is located, reference may be made to that record in lieu of providing the required data.

(3) Documentation shall be provided for all GLO or BLM corner(s) or point(s) used to control the location of the parcel surveyed. This requirement shall be met by providing on the document produced:

(a) The information required by both the Survey Recording Act and the history and evidence found sections of the Land Corner Record form; or

(b) The recording data of a document(s) that provides the required information and is filed or recorded in the county recording office of the county in which the parcel is located.

(4) Every corner originally monumented by the GLO or BLM that is physically reestablished shall be monumented in accordance with the Survey Recording Act. If the reestablished corner is not filed or recorded as part of a record of survey, plat or short plat, at least three references shall be established and filed or recorded on a Land Corner Record form. If the reestablished corner is filed or recorded as part of a record of survey, plat or short plat, then ties to at least two other monuments shown on the record document may serve in lieu of the required references. A valid set of coordinates on the Washington coordinate system may serve as one of the references. However, to best ensure an accurate relocation, references in close proximity to the corner are recommended. Monuments placed shall be magnetically locatable and include a cap stamped with the appropriate corner designation as defined in the current BLM Manual of Surveying Instructions.

#### AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-040 ~~LAND DESCRIPTION ((REQUIREMENTS-GENERAL)) GUIDELINES.~~ ((Any legal land description written defining land boundaries shall be complete and accurate from the title standpoint, providing definite and unequivocal identification of the lines or boundaries from which a physical survey can be accomplished:)) An instrument used for the conveyance of real property should contain a description of the property sufficiently definite to allow location by a land surveyor without recourse to oral testimony.

The following guidelines consist of elements which are recommended for use in the preparation of land descriptions. They are not intended to be all inclusive and may not be applicable in all situations:

(1) In a description of a lot, tract, parcel or portion thereof in a recorded plat, short plat, or record of survey:

(a) Lot and block number or designation and addition or subdivision name;

(b) Official recording data and identification of recording office;

(c) Location by section, township, and range with respect to the Willamette Meridian, (if applicable);

(d) Property location by county and state.

(2) In a description of an easement, lot, tract, or parcel described by metes and bounds:

(a) Parcel location by the subdivision(s) of the section; or portion of any other official subdivisional tract from a GLO or BLM public land survey; or portion of a recorded plat, short plat, or record of survey;

(b) Section, township, and range with respect to the Willamette Meridian;

(c) Property location by county and state;

(d) Direction and distance to GLO or BLM corners or properly determined section subdivisional corners with description of the physical corners, if applicable;

(e) A description of the boundary giving:

(i) Place of beginning and/or initial point;

(ii) Basis of bearings or azimuths;

(iii) Bearings, angles or azimuths in degrees, minutes and seconds;

(iv) Distances in feet and decimals of feet or record units, where applicable;

(v) Curve data showing the controlling elements;

(vi) Identification of senior adjoiners giving recording office and filing reference;

(vii) Calls to existing controlling monuments, both artificial and natural;

(viii) Calls which indicate if a course is a section line, subdivisional line, a line of record or parallel therewith;

(ix) A bearing and distance for each boundary line of the described parcel with a closing course returning to the point of beginning, except where the boundary can be described by a record, physical or natural feature.

(3) In a description based on a public land survey subdivision:

(a) Special segregations such as donation land claims, homestead entry surveys, townsites, tracts, and Indian or military reservations;

(b) Government lot number(s);

(c) Aliquot part designation;

(d) Section, township, and range with respect to the Willamette Meridian;

(e) Property location by county and state.

(4) Other elements of consideration for any land description:

(a) Avoid ambiguities when exceptions to a parcel are stated;

(b) Indicate width of strip description and its relationship to described centerline or survey line;

(c) Delineate the dividing line when designating a fractional portion of a parcel;

(d) When designating one-half or other fractional portion of an aliquot part by government subdivision procedures, follow with "according to U.S. Government subdivision procedures."

#### AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-050 ~~((LAND DESCRIPTION REQUIREMENTS-SPECIFIC ITEMS)) SURVEY MAP REQUIREMENTS.~~ ((The following items must be considered and included in a land description when applicable:

(1) Lot, tract or portion thereof in a recorded plat:

(a) Lot and block number or designation;

(b) Addition or subdivision name and number and its location by section, township, range and meridian;

(c) Plat book and page number of recorded plat;

(d) Recording office, city or county and state;

(2) Lot or tract described by metes and bounds:

(a) City and/or county and state;

(b) Subdivision(s) of section, township, range, meridian or other of official GLO or BLM survey subdivision, or portion of recorded plat;

(c) Measurement to official GLO or BLM survey subdivision corner or properly determined subdivision corner thereof with physical description of such corners;

(d) A traverse of the boundary giving:

(i) Place of beginning and/or initial point including description of the physical monument;

(ii) Bearings or azimuths in degrees, minutes and seconds;

(iii) Distances in feet to the nearest one-hundredth;

(iv) Identification of adjoiners giving official recording office and recovery index when other deed calls are uncertain;

(v) Indicate if course is a dividing line of a section subdivision, a line of record or parallel thereof;

(vi) Indicate area to the nearest one-hundredth acre:)) The following requirements apply to land boundary survey maps and plans, records of surveys, plats, short plats, boundary line adjustments, and binding site plans required by law to be filed or recorded with the county.

(1) All such documents filed or recorded shall conform to the following:

(a) They shall display a county recording official's information block which shall be located along the bottom or right edge of the document unless there is a local requirement specifying this information in a different format. The county recording official's information block shall contain:

(i) The title block, which shall be on all sheets of maps, plats or plans, and shall identify the business name of the firm and/or land surveyor that performed the survey. For documents not requiring a surveyor's certificate and seal, the title block shall show the name and business address of the preparer and the date prepared. Every sheet of multiple sheets shall have a sheet identification number, such as "sheet 1 of 5";

(ii) The auditor's certificate, where applicable, which shall be on the first sheet of multiple sheets; however, the county recording official shall enter the appropriate volume and page and/or the auditor's file number on each sheet of multiple sheets;

(iii) The surveyor's certificate, where applicable, which shall be on the first sheet of multiple sheets and shall show the name, license number, signature and seal of the land surveyor who had responsible charge of the survey portrayed, and the date the land surveyor approved the map or plat. Every sheet of multiple sheets shall have the seal and signature of the land surveyor and the date signed;

(iv) The following indexing information on the first sheet of multiple sheets:

(A) The section-township-range and quarter-quarter(s) of the section in which the surveyed parcel lies, except that if the parcel lies in a portion of the section officially identified by terminology other than aliquot parts, such as government lot, donation land claim, homestead entry survey, townsite, tract, and Indian or military reservation, then also identify that official subdivisional tract and call out the corresponding approximate quarter-quarter(s) based on projections of the aliquot parts. Where the section is incapable of being described by projected aliquot parts, such as the Port Angeles townsite, or elongated sections with excess tiers of government lots, then it is acceptable to provide only the official GLO designation. A graphic representation of the section divided into quarter-quarters may be used with the quarter-quarter(s) in which the surveyed parcel lies clearly marked;

(B) Additionally, if appropriate, the lot(s) and block(s) and the name and/or number of the filed or recorded subdivision plat or short plat with the related recording data;

(b) They shall contain:

(i) A north arrow;

(ii) The vertical datum when topography or elevations are shown;

(iii) The basis for bearings, angle relationships or azimuths shown.

The description of the directional reference system, along with the method and location of obtaining it, shall be clearly given (such as "North by Polaris observation at the SE corner of section 6"; "Grid north from azimuth mark at station Kellogg"; "North by compass using twenty-one degrees variation"; "None"; or "Assumed bearing based on . . ."). If the basis of direction differs from record title, that difference should be noted;

(iv) Bearings, angles, or azimuths in degrees, minutes and seconds;

(v) Distances in feet and decimals of feet;

(vi) Curve data showing the controlling elements.

(c) They shall show the scale for all portions of the map, plat, or plan provided that detail not drawn to scale shall be so identified. A graphic scale for the main body of the drawing, shown in feet, shall be included. The scale of the main body of the drawing and any enlargement detail shall be large enough to clearly portray all of the drafting detail, both on the original and reproductions;

(d) The document filed or recorded and all copies required to be submitted with the filed or recorded document shall, for legibility purposes:

(i) Have a uniform contrast suitable for microfilming;

(ii) Be without any form of cross-hatching, shading, or any other highlighting technique that to any degree diminishes the legibility of the drafting detail or text;

(iii) Contain dimensioning and lettering no smaller than 0.08 inches, vertically. This provision does not apply to vicinity maps, land surveyors' seals and certificates.

(c) They shall not have any adhesive material affixed to the surface;

(f) For the intelligent interpretation of the various items shown, including the location of points, lines and areas, they shall:

(i) Reference record survey documents that identify different corner positions;

(ii) Show deed calls that are at variance with the measured distances and directions of the surveyed parcel;

(iii) Identify all corners used to control the survey whether they were calculated from a previous survey of record or found, established, or reestablished;

(iv) Give the physical description of any monuments shown, found, established or reestablished, including type, size, and date visited;

(v) Show the record land description of the parcel or boundary surveyed or a reference to an instrument of record;

(vi) Identify any ambiguities, hiatuses, and/or overlapping boundaries;

(vii) Give the location and identification of any visible physical appurtenances such as fences or structures which may indicate encroachment, lines of possession, or conflict of title.

(2) All signatures and writing shall be made with permanent black ink.

(3) The following criteria shall be adhered to when altering, amending, changing, or correcting survey information on previously filed or recorded maps, plats, or plans:

(a) Such documents filed or recorded shall comply with the applicable local requirements and/or the recording statute under which the original map, plat, or plan was filed or recorded;

(b) Alterations, amendments, changes, or corrections to a previously filed or recorded map, plat, or plan shall only be made by filing or recording a new document;

(c) All such documents filed or recorded shall contain the following information:

(i) A title or heading identifying the document as an alteration, amendment, change, or correction to a previously filed or recorded map, plat, or plan along with, when applicable, a cross-reference to the volume and page and auditor's file number of the altered document;

(ii) Indexing data as required by subsection (1)(a)(iv) of this section;

(iii) A prominent note itemizing the change(s) to the original document. Each item shall explicitly state what the change is and where the change is located on the original;

(d) The county recording official shall file, index, and cross-reference all such documents received in a manner sufficient to provide adequate notice of the existence of the new document to anyone researching the county records for survey information;

(e) The county recording official shall send to the engineering division of the department of natural resources, as per RCW 58.09.050(3), a legible copy of any document filed or recorded which alters, amends, changes, or corrects survey information on any document that has been previously filed or recorded pursuant to the Survey Recording Act.

(4) In the absence of permanency and durability standards for public records, eventually to be established by rule by the Washington state division of archives and records management, the following standards will apply to maps, plats, or plans filed with the county. Upon adoption of rules established by the division of archives and records management, those rules shall prevail over this section.

(a) The following are deemed to be acceptable material for filing:

(i) Permanent black ink on linen;

(ii) Photo mylar with a fixed silver halide base;

(iii) Permanent black ink on mylar when the ink is coated with a suitable substance to assure permanent legibility;

(b) The following are deemed to be unacceptable material for filing:

(i) Diazo mylar;

(ii) Linen with an image produced by a dry electrostatic process;

(iii) Mylars with an image produced by a dry electrostatic process.

#### AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-060 ((~~SURVEY MAP REQUIREMENTS~~))  
**GEODETIC CONTROL SURVEY STANDARDS.** ((~~The record of survey shall be a map properly drawn to a convenient scale such as to satisfy the requirements of the Survey Recording Act and/or chapter 58.17 RCW relating to platting, subdivision and dedication of land:~~

(1) Boundary survey maps shall include the following where applicable:

(a) Title of survey;

(b) Land surveyor certification by showing name, license number, signature and seal;

(c) Date;

(d) North arrow and bearing reference;

(e) Deed calls and reference to control monuments;

(f) Indicate monuments found and set;

(g) Bearings, azimuths or angles in degrees and minutes and seconds and distances to the nearest one-hundredth of a foot;

(h) Legal description of property;

(i) Indicate hiatuses (gaps) and/or overlapping boundaries;

(j) Physical appurtenances (fences, structures, etc.) which may indicate encroachment, lines of possession or conflict of title;

(k) Indexing data block, showing:

(i) Section, township and range and, additionally, the quarter(s) of a section in which the surveyed parcel lies;

(ii) Other official subdivisional tract of the GLO or BLM survey;

(iii) In a recorded subdivision, show lot, block, name and number of subdivision with volume and page of recorded plat;

(2) A copy of the survey map shall be furnished the client.) The following standards shall apply to geodetic control surveys:

Horizontal and vertical control work must meet or exceed those accuracy and specification standards as published by the Federal Geodetic Control Committee, September 1984, in the bulletin titled, "Standards and Specifications for Geodetic Control Networks" or any subsequently published bulletins modifying such class standards. The class of control surveys shall be shown on documents prepared.

AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-070 ((~~FIELD TRAVERSE STANDARDS FOR LAND SURVEYS~~)) SURVEY STANDARDS—TRANSITION PERIOD. ((The following standards shall apply to field traverses used in land boundary surveys. Such standards should be considered minimum standards only. Higher levels of precision are expected to be utilized in areas with higher property values or in other situations necessitating higher accuracy.

- (1) Linear closures after Azimuth adjustment:
(a) City - central and local business and industrial areas 1:10,000
(b) City - residential and subdivision lots 1:5,000
(c) Section subdivision, new subdivision boundaries for residential lots and interior monument control 1:5,000
(d) Suburban - residential and subdivision lots 1:5,000
(e) Rural - forest land and cultivated areas 1:5,000
(f) Lambert grid traverses 1:10,000
(2) Angular closure:
(a) Where 1:10,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of 10 /n, where "n" equals the number of angles in the closed traverse or three seconds per angle whichever is the least.
(b) Where 1:5,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of 30 /n where "n" equals the number of angles in the closed traverse or eight seconds per angle whichever is the least.)) Until January 1, 1991, the accuracy or precision of field work may be determined and reported by either relative accuracy procedures or the current field traverse standards, provided that the final result shall meet or exceed the current standards contained in WAC 332-130-090. On or after January 1, 1991, relative accuracy standards shall be the sole applicable standard.

AMENDATORY SECTION (Amending Order 275, filed 5/2/77)

WAC 332-130-080 ((~~GEODETTIC CONTROL SURVEY STANDARDS~~)) RELATIVE ACCURACY—PRINCIPLES. ((The following standards shall apply to geodetic control surveys:

- (1) Horizontal control:
(a) At least second-order Class II accuracy and specifications as published by the Department of Commerce, February, 1974 in Bulletin titled, "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys";
(b) Cadastral monuments, as defined in chapter 58.20 RCW.
(2) Vertical control:
At least second-order Class II accuracy and specifications as published by the Department of Commerce, February, 1974 in Bulletin titled, "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys.") On or before January 1, 1990, specific relative accuracy standards will be adopted by the department of natural resources to take effect on January 1, 1991. The following principles of relative accuracy are provided in the interim to guide those who may be analyzing their work by these procedures.
(1) Relative accuracy means the theoretical uncertainty in the location of any point or corner relative to other points or corners set, found, reestablished, or established. A standard of relative accuracy can be achieved by using appropriate equipment and implementing field and office procedures that will result in a ninety-five percent probability of achieving the accuracy required.
(2) Relative accuracy is not related to uncertainties due to differences between measured values and record values or uncertainties in the geodetic position.
(3) In the application of a relative accuracy standard, the surveyor must consider the established land use patterns, land values of and in the vicinity of the surveyed parcel, and the client's intended use of the property. Higher levels of precision are expected to be used in situations necessitating higher accuracy.
(4) Each land boundary survey should contain a statement identifying the method of mathematical analysis used in achieving a stated relative accuracy.

NEW SECTION

WAC 332-130-090 FIELD TRAVERSE STANDARDS FOR LAND BOUNDARY SURVEYS. The following standards shall apply to field traverses used in land boundary surveys. Such standards should be considered minimum standards only. Higher levels of precision are expected to be utilized in areas with higher property values or in other situations necessitating higher accuracy.

- (1) Linear closures after azimuth adjustment.
(a) City - central and local business and industrial areas 1:10,000
(b) City - residential and subdivision lots 1:5,000
(c) Section subdivision, new subdivision boundaries for residential lots and interior monument control 1:5,000
(d) Suburban - residential and subdivision lots 1:5,000
(e) Rural - forest land and cultivated areas 1:5,000
(f) Lambert grid traverses 1:10,000
(2) Angular closure.
(a) Where 1:10,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of 10 /n, where "n" equals the number of angles in the closed traverse or three seconds per angle whichever is the least.
(b) Where 1:5,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of 30 /n where "n" equals the number of angles in the closed traverse or eight seconds per angle, whichever is the least.

NEW SECTION

WAC 332-130-100 EQUIPMENT AND PROCEDURES. (1) All land boundary surveys filed or recorded shall contain a statement identifying the type of equipment used, such as 10-second theodolite and calibrated chain, or 10-second theodolite and electronic distance measuring unit, and procedures used, such as field traverse, photogrammetric survey, global positioning system survey or a combination thereof to accomplish the survey shown;

(2) All measuring instruments and equipment shall be maintained in adjustment according to manufacturer's specifications and all distance measuring instruments shall be, at a minimum, compared and adjusted annually to a National Geodetic Survey calibrated baseline.

WSR 89-08-022

PROPOSED RULES

EDMONDS COMMUNITY COLLEGE

[Filed March 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Edmonds Community College, Community College District 23, intends to adopt, amend, or repeal rules concerning public records policy;

that the institution will at 5:00 p.m., Monday, May 15, 1989, in the Board Room, Lyn 424, Lynnwood Hall, Edmonds Community College, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 28B.19 RCW.

The specific statute these rules are intended to implement is chapter 42.17 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 15, 1989.

Dated: March 27, 1989

By: Barbara Patterson
Director of Human Resources

## STATEMENT OF PURPOSE

Title: Public records policy.

Description of Purpose: To ensure compliance by Community College District 23 with the provisions of chapter 42.17 RCW and public [publish] the college's policy and procedures for accessing public records.

Statutory Authority: Chapter 28B.19 RCW, Higher Education Administration Procedure Act.

Summary of Rule: Proposed chapter 132Y-320 WAC describes Edmonds Community College's process for members of the public to access the records of the college.

Official Responsible for Proposed Procedure Language: Barbara Patterson, Director of Human Resources.

Chapter 132Y-320 WAC  
PUBLIC RECORDS POLICY

## WAC

132Y-320-010	Purpose.
132Y-320-020	Definitions.
132Y-320-030	Description of central and field organization of Community College District No. 23.
132Y-320-040	Operations and procedures.
132Y-320-050	Public records available.
132Y-320-060	Public records officer.
132Y-320-070	Office hours.
132Y-320-080	Requests for public records.
132Y-320-090	Copying.
132Y-320-100	Exemptions.
132Y-320-110	Review of denials of public records requests.
132Y-320-120	Protection of public records.
132Y-320-130	Records index.
132Y-320-990	Appendix A—Request for public record to Community College District No. 23.

NEW SECTION

WAC 132Y-320-010 PURPOSE. The purpose of this chapter shall be to ensure compliance by Community College District No. 23 with the provisions of chapter 42.17 RCW, commonly called Initiative No. 276, and in particular with RCW 42.17.250 - 42.17.340 of that act dealing with public records.

NEW SECTION

WAC 132Y-320-020 DEFINITIONS. (1) "Public records" include 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.

(2) "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, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Community College District No. 23" is an agency organized by statute pursuant to RCW 28B.50.040 and shall hereinafter be referred to as the "district." Where appropriate, the term district also refers to the board of trustees and employees of the district.

NEW SECTION

WAC 132Y-320-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF COMMUNITY COLLEGE DISTRICT NO. 23. District No. 23 is a community college district organized under RCW 28B.50.040. The administrative office of the district and its staff is located at 20000 68th Avenue West, Lynnwood, Washington 98036.

NEW SECTION

WAC 132Y-320-040 OPERATIONS AND PROCEDURES. The district is established under RCW 28B.50.040 to implement the educational purposes established by RCW 28B.50.020. The college district is operated under the supervision and control of a board of trustees. The board of trustees is made up of five members, each appointed by the governor to a term of five years. The trustees exercise the powers and duties granted them under RCW 28B.50.140.

NEW SECTION

WAC 132Y-320-050 PUBLIC RECORDS AVAILABLE. All public records of the district, as defined in WAC 132Y-320-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 and WAC 132Y-320-100, Exemptions.

NEW SECTION

WAC 132Y-320-060 PUBLIC RECORDS OFFICER. The district's public records shall be in the charge of the public records officer designated by the college president. The person so designated shall be located in the administrative offices of the district. The public records officer shall be responsible for the following: The implementation of the district's rules and regulations regarding release of public records, coordinating the staff of the district in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 132Y-320-070 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the district. For the 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.

NEW SECTION

WAC 132Y-320-080 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 42.17 RCW 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 may be inspected or copied, or copies of such records may be obtained by members of the public upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the district's staff if the public records officer is not available, at the administrative offices of the district during customary office hours. The request shall include the following information:

- The name of the person requesting the record;
- The time of day and calendar date on which the request was made;
- The nature of the request;
- If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- If the requested matter is not identifiable by reference to the district's 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 staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 132Y-320-090 COPYING. No fee shall be charged for the inspection of public records. The district shall charge a fee of ten cents per page of copy for providing copies of public records and for use of the district's copy equipment. This charge is the amount necessary to reimburse the district for its actual costs incident to such copying. If a particular request for copies requires an unusually large amount of time, or the use of any equipment not readily available, the district will provide copies at a rate sufficient to cover any additional cost. All fees must be paid by money order, cashier's check or cash in advance.

NEW SECTION

WAC 132Y-320-100 EXEMPTIONS. (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132Y-320-080 is exempt under the provisions of chapter 42.17 RCW.

(2) In addition, pursuant to RCW 42.17.310, the district reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION

WAC 132Y-320-110 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 by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the president of the college. The president or his designee shall immediately consider the matter and either affirm or reverse such denial or consult with the attorney general to review the denial. In any case, the request shall be returned with a final decision within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the district has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 132Y-320-120 PROTECTION OF PUBLIC RECORDS. Requests for public records shall be made in the administration building of Edmonds Community College. 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 for their inspection. Copies shall be made at Edmonds Community College. If copying facilities are not available at the college, the college will arrange to have copies made commercially according to the provisions of WAC 132Y-320-090, Copying.

NEW SECTION

WAC 132Y-320-130 RECORDS INDEX. (1) Index - the district has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

- (a) Final opinions, 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 any private party.
- (2) Availability - the current index promulgated 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 132Y-320-990 APPENDIX A—REQUEST FOR PUBLIC RECORD TO COMMUNITY COLLEGE DISTRICT NO. 23.

APPENDIX A

REQUEST FOR PUBLIC RECORD TO  
COMMUNITY COLLEGE DISTRICT NO. 23  
EDMONDS COMMUNITY COLLEGE

.....  
Signature Name (please print)  
.....  
Name of Organization  
.....  
Mailing Address of Applicant Phone Number  
.....  
Date Request Made at Community College District No. 23 Time of Day of Request  
.....  
Nature of Request  
.....  
Identification Reference on Current Index (please describe)  
.....  
Description of record or matter requested, if not identifiable by reference to current index of Community College District No. 23.  
.....  
Request Approved Date By Public Records Officer  
.....  
Request Denied Reasons for Denial  
.....  
Referred to Date

**WSR 89-08-023**

**PROPOSED RULES**

**EDMONDS COMMUNITY COLLEGE**

[Filed March 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Edmonds Community College, Community College District 23, intends to adopt, amend, or repeal rules concerning grievance procedure for discrimination based on handicap;

that the institution will at 5:00 p.m., Monday, May 15, 1989, in the Board Room, Lyn 424, Lynnwood Hall, Edmonds Community College, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 28B.19 RCW.

The specific statute these rules are intended to implement is section 504 of the Rehabilitation Act of 1973, federal.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 15, 1989.

Dated: March 27, 1989

By: Barbara Patterson  
Director of Human Resources

### STATEMENT OF PURPOSE

Title: Grievance procedure for discrimination based on handicap.

Description of Purpose: To meet the basic legal requirements of section 504 of the Rehabilitation Act of 1973, the attorney general's office has recommended that the college's internal grievance process for discrimination complaints based on handicap be put into the Washington Administrative Code.

Statutory Authority: Chapter 28B.19 RCW, Higher Education Administrative Procedure Act.

Summary of Rule: Proposed chapter 132Y-310 WAC describes Edmonds Community College's internal grievance process for addressing student and employee complaints related to discrimination on the basis of handicap.

Official Responsible for Proposed Procedure Language: Barbara Patterson, Director of Human Resources.

#### Chapter 132Y-310 WAC GRIEVANCE PROCEDURE FOR DISCRIMINATION BASED ON HANDICAP

WAC	
132Y-310-010	Preamble.
132Y-310-020	Informal procedure.
132Y-310-030	Formal procedure.
132Y-310-040	Other remedies.

#### NEW SECTION

WAC 132Y-310-010 PREAMBLE. Community College District XXIII is covered by Section 504 of the Rehabilitation Act of 1973 prohibiting discrimination on the basis of handicap in education. Any applicant for admission, enrolled student, applicant for employment or employee of Edmonds Community College who believes she/he has been discriminated against on the basis of handicap may lodge an institutional grievance by following the procedures below.

#### NEW SECTION

WAC 132Y-310-020 INFORMAL PROCEDURE. All employees and students should feel free to discuss perceived discrimination with the individual immediately in charge, such as the first-line supervisor or instructor, to see if the situation can be resolved informally. Employees and students may also consult directly with the college affirmative action officer or coordinator for disabled student services without making a formal written complaint, and this consultation will be considered confidential. Employees and students are not required to use the informal process and may go directly to the formal procedure.

Any college official receiving a discrimination complaint shall contact the affirmative action officer or designee as soon as reasonably convenient. The college official shall arrange for the complainant to receive a copy of the grievance procedure.

#### NEW SECTION

WAC 132Y-310-030 FORMAL PROCEDURE. Step one: Employees and students must make a written complaint concerning discriminatory behavior to the affirmative action officer or designee.

(1) Complaints will be held in confidence. No action against the person accused will be taken on behalf of the complainant unless the complainant consents to be identified to the one accused in connection with the investigation.

(2) The complainant may bring a person of his or her choice to the initial or subsequent complaint meetings.

(3) The affirmative action officer or designee shall give a copy of these regulations and the board policy to any person making a formal complaint and to the accused.

(4) The result of that consultation and any investigation made will be communicated to the complainant before any further action is taken.

(5) An informal hearing may be substituted for investigation if the complainant and the accused agree. The affirmative action officer or designee will be responsible for investigating the complaint and discussing the complaint with the one accused. The affirmative action officer will make a written recommendation to the president within a reasonable time following the close of the investigation or hearing.

(6) Appropriate corrective measures will be decided by the president of the college upon consultation with the affirmative action officer and the appropriate administrators or supervisors involved. If an accused employee or student disagrees with the determination or appropriateness of the corrective measures, that individual may contest those measures through the formal faculty or classified grievance procedures, if they are covered by an agreement, or the student disciplinary code.

(7) Information will be entered in the personnel or student file only to the extent that a formal reprimand or other disciplinary action has been taken. If no disciplinary action is taken, the affirmative action officer will keep a record of the investigation accessible to the president, the complainant and the accused for a period of three years and then that record will be destroyed. If a formal complaint is filed with an outside state or federal agency, files will be maintained until the complaint is resolved. When such files are used, written notice will be placed in the file indicating the person using the file and the date used.

#### NEW SECTION

WAC 132Y-310-040 OTHER REMEDIES. These procedures, outlined in WAC 132Y-310-010 through 132Y-310-030, are internal college procedures and, as such, serve to resolve complaints within the college's administrative framework. These procedures do not replace an individual's timely complaint with an external agency such as the Office of Civil Rights, Equal Employment Opportunity Commission, or the Washington state human rights commission.

### WSR 89-08-024

#### PROPOSED RULES

### UTILITIES AND TRANSPORTATION COMMISSION

[Filed March 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to surcharges on switched access lines, WAC 480-122-060. The proposed amendatory section is shown below as Appendix A, Docket No. U-89-2754-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17).

This is notice of intention to amend on a permanent basis a rule amended on an emergency basis under General Order No. R-296, and filed with the code reviser this same date;

that the agency will at 9:00 a.m., Wednesday, May 10, 1989, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.01.040 and 80.36.440.

The specific statute these rules are intended to implement is RCW 80.36.430.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 5, 1989.

Dated: March 29, 1989

By: Paul Curl  
Acting Secretary

#### STATEMENT OF PURPOSE

In the matter of amending WAC 480-122-060 relating to surcharges on switched access lines.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.36.440 which direct that the commission has authority to implement the provisions of chapter 229, Laws of 1987, as codified in RCW 80.36.410 et seq.

The rules proposed by the Washington Utilities and Transportation Commission are designed to reduce the surcharge authorized by RCW 80.36.430 to a level more consistent with current costs of administering the lifeline program.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, 80.36.430 and 80.36.440.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule changes proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to Joint Administrative Rules Review Committee.

#### APPENDIX "A"

**AMENDATORY SECTION** (Amending Order R-277, Cause No. U-87-1102-R, filed 10/1/87)

**WAC 480-122-060 SURCHARGES.** Local exchange companies shall surcharge all switched access lines not subscribing under the lifeline assistance program ((~~twelve~~) five cents per month. Each party line subscriber shall be assessed the surcharge in full. Money collected from the surcharge shall be transferred to a lifeline fund to be administered by the department.

#### WSR 89-08-025

#### EMERGENCY RULES

#### UTILITIES AND TRANSPORTATION COMMISSION

[Order R-296, Docket No. U-89-2754-R—Filed March 29, 1989]

In the matter of amending WAC 480-122-060 relating to surcharges on switched access lines.

The Washington Utilities and Transportation Commission finds that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of the facts constituting such emergency is in accordance with RCW 80.36.430, the commission established a lifeline surcharge on all business and residential access lines of telecommunications companies for the purpose of lifeline administrative and program expenses. Continuation of the surcharge at its present level (12¢ monthly) would produce amounts in excess of those necessary to meet that statutory charge. Reduction to an appropriate level should be put into effect prior to the commencement of the next monthly billing cycle for telecommunications companies.

This rule-making proceeding is being promulgated pursuant to RCW 80.01.040 and 80.36.440, and is intended administratively to implement the lifeline telecommunication services contemplated by RCW 80.36.410, et seq.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

This amendment to WAC 480-122-060 affects no economic values.

In reviewing the entire record herein, it has been determined that the above section should be amended as indicated and as set forth in Appendix A shown below and made a part hereof by this reference. The amendment and repeal of this section will reduce the surcharge authorized by RCW 80.36.430 to a level more consistent with current costs of administering the lifeline program.

#### ORDER

**WHEREFORE, IT IS ORDERED** That the amendment of WAC 480-122-060 as set forth in Appendix A, take effect as an emergency rule of the Washington Utilities and Transportation Commission pursuant to RCW 34.04.030 and 34.04.040(2).

**IT IS FURTHER ORDERED** That the order and the annexed rule, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.



DATED at Olympia, Washington, and effective this 29th day of March, 1989.

Washington Utilities and Transportation Commission  
 Sharon L. Nelson, Chairman  
 Richard D. Casad, Commissioner  
 A. J. Pardini, Commissioner

APPENDIX "A"

**AMENDATORY SECTION** (Amending Order R-277, Cause No. U-87-1102-R, filed 10/1/87)

**WAC 480-122-060 SURCHARGES.** *Local exchange companies shall surcharge all switched access lines not subscribing under the lifeline assistance program ((twelve)) five cents per month. Each party line subscriber shall be assessed the surcharge in full. Money collected from the surcharge shall be transferred to a lifeline fund to be administered by the department.*

**WSR 89-08-026**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF ECOLOGY**  
 [Memorandum—March 30, 1989]

STATE/ENVIRONMENTAL PROTECTION AGENCY  
 AGREEMENT NOTICE OF PUBLIC HEARING

April 10, 1989

The Washington State Departments of Ecology (ecology), Social and Health Services (DSHS), and Agriculture and the United States Environmental Protection Agency (EPA) are requesting public review and comment on proposed environmental programs to be included in a formal agreement between the state agencies and EPA for the state fiscal year 1990 (July 1, 1989 – June 30, 1990).

The State/Environmental Protection Agency Agreement (SEA) outlines priority environmental problems and state activities responsive to those problems for air programs, water programs, hazardous waste programs and pesticides in groundwater programs. EPA provides funding and technical assistance to the state agencies while the state agencies provide staff time to accomplish a variety of activities in those programs.

The draft SEA document will be available to the public after May 1, 1989, at Ecology Headquarters (Lacey), Ecology Regional Offices (Tumwater, Redmond, Yakima, and Spokane), DSHS Headquarters (Tumwater), Agriculture Headquarters (Olympia), and EPA offices (Seattle and Lacey).

A public hearing will provide opportunity for comment on the draft SEA. Written comments will also be accepted until June 1, 1989.

Public Hearing: May 25, 1989, 7:00 p.m., Energy Facility Site Evaluation Council, Hearing Room (EFSEC), 4224 6th Avenue S.E., Building 1, Lacey, WA.

Requests for the draft SEA and written comments should be addressed to: DEE Peace Ragsdale, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, phone (206) 459-6280.

**WSR 89-08-027**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF LICENSING**  
**(Escrow Commission)**  
 [Memorandum—March 28, 1989]

The Escrow Commission will hold a public meeting on June 9, 1989, at the Department of Licensing, Investigation and Enforcement Division, 464 12th Avenue, Suite 300, Seattle, WA.

The public meeting will commence at 9:00 a.m.

**WSR 89-08-028**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed March 30, 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 Intermittent employment—Rules—Regulations, amending WAC 356-30-140;

that the agency will at 10:00 a.m., Thursday, May 11, 1989, in the Board Hearings Room, Department of Personnel, 521 Capitol Way South, 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.

Dated: March 29, 1989  
 By: Robert Boysen  
 Acting Director

STATEMENT OF PURPOSE

Title: Amending WAC 356-30-140 Intermittent employment—Rules—Regulations.

Purpose: This rule describes the category of intermittent employment and outlines the proper use of intermittent employees, time limits, and movement between temporary appointments.

Statutory Authority: RCW 41.06.150(4).

Summary: This proposal deletes the reference to the director of personnel making intermittent appointments. The change more accurately describes the procedure whereby the appointing authority, as the director's designee, makes the appointment.

Reasons: This will clarify the director of personnel's authority in authorizing agencies to make intermittent appointments under the agency's decentralized appointment authority.

Responsibility for Drafting: Paul Peterson, Department of Personnel, 521 South Capitol Way, FE-11, Olympia, WA 98504, phone (206) 586-1769; Implementation and Enforcement: Department of Personnel.

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

Comments or Recommendations: None.

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

**AMENDATORY SECTION** (Amending Order 313, filed 1/25/89, effective 3/1/89)

WAC 356-30-140 INTERMITTENT EMPLOYMENT—RULES—REGULATIONS. (1) Intermittent appointments may not be made ((by)) without the approval of the director of personnel or designee. An intermittent appointment shall be approved when the nature of the work is intermittent in character fitting no particular pattern. An employee may not work more than 1560 nonovertime hours within any twelve-month period in an intermittent appointment. A position which is filled beyond the 1560 nonovertime hours within a twelve-month period shall be vacated for a minimum of three months. Time spent in emergency appointments will be counted in the 1560 hours.

(2) Intermittent appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) Intermittent appointees must meet the minimum qualifications for the class in which they are hired unless the director of personnel determines that program needs demand otherwise. Established registers may be used when making intermittent appointments.

(4) Consecutive appointments of the same person in the same agency may be made as long as the employee does not work more than 1560 nonovertime hours in a twelve-month period.

(5) No person can become a permanent employee because of time served as an intermittent employee.

(6) Intermittent employees who accept temporary appointments may return to intermittent employment and resume intermittent status without approval of the director of personnel if they have not exceeded 1560 nonovertime hours in all nonpermanent appointments within the last twelve months. If the employee reaches 1560 nonovertime hours in the last twelve months, a mandatory three-month break must be made, unless the director of personnel determines otherwise.

(7) Agencies must review intermittent appointments on a quarterly basis to ensure that intermittent employees are employed in accordance with these rules.

(8) The director of personnel shall monitor intermittent appointments made pursuant to this section and may revoke delegated authority where abuse is found.

### WSR 89-08-029

#### NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—March 29, 1989]

The board of directors of the Washington State Convention and Trade Center will meet on Wednesday, April 5, 1989, at 3:00 p.m. in Room 601 of the Convention and Trade Center, 800 Convention Place, Seattle.

The Design Committee of the Washington State Convention and Trade Center will meet on Wednesday, April 5, 1989, at 11:30 a.m. in Room 601 of the Convention and Trade Center, 800 Convention Place, Seattle.

The Art Committee of the Washington State Convention and Trade Center will meet on Wednesday, April 5, 1989, at 10:00 a.m. in Room 601 of the Washington State Convention and Trade Center, 800 Convention Place, Seattle.

If you have questions about these meetings, please call Peggy Flynn at 447-5000.

### WSR 89-08-030

#### ADOPTED RULES

#### UTILITIES AND TRANSPORTATION COMMISSION

[Order R-297, Docket No. U-88-1867-R—Filed March 30, 1989]

In the matter of repealing WAC 480-90-201, 480-90-206, 480-90-216, 480-90-221, 480-90-226, 480-90-231, 480-90-241, 480-90-246, 480-90-251, 480-90-256, 480-90-261, 480-90-266, 480-90-271, 480-90-276, 480-90-281 and 480-90-286 relating to natural gas lighting.

This action is taken pursuant to Notice No. WSR 89-05-042 filed with the code reviser on February 15, 1989. The rule repeal shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 89-05-042 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, March 22, 1989, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to March 17, 1989, and orally at 9:00 a.m., Wednesday, March 22, 1989, in the Commission's Hearing Room above noted. At the March 22, 1989, meeting the commission considered the rule repeal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that the above-listed sections should be repealed as set forth in Appendix A shown below and by this reference made a part hereof. This rule repeal is designed to repeal restrictions imposed by the Power Plant and Industrial Use Act of 1978 (42 U.S.C. § 8372) which prohibited use of natural gas for outdoor lighting. That act was repealed by P.L. 100-42 (1)(A)(4), and the restrictions are no longer necessary or desirable.

## ORDER

WHEREFORE, IT IS ORDERED That rules as set forth in Appendix A, be repealed as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 29th day of March, 1989.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
A. J. Pardini, Commissioner

## APPENDIX "A"

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 480-90-201 PROHIBITED FIXTURES.
- (2) WAC 480-90-206 EXEMPTIONS  
FIXTURES.
- (3) WAC 480-90-216 PROHIBITED SERVICE.
- (4) WAC 480-90-221 EXEMPTIONS—PROHIBITED SERVICE—LIGHTING OF HISTORICAL SIGNIFICANCE.
- (5) WAC 480-90-226 EXEMPTIONS—PROHIBITED SERVICE—MEMORIAL LIGHTING.
- (6) WAC 480-90-231 EXEMPTIONS—PROHIBITED SERVICE—COMMERCIAL LIGHTING OF A TRADITIONAL NATURE.
- (7) WAC 480-90-241 EXEMPTIONS—PROHIBITED SERVICE—SAFETY OF PERSONS AND PROPERTY.
- (8) WAC 480-90-246 EXEMPTIONS—PROHIBITED SERVICE—SUBSTANTIAL EXPENSE AND NOT COST JUSTIFIED.
- (9) WAC 480-90-251 EXEMPTIONS—PROHIBITED SERVICE—PUBLIC INTEREST.
- (10) WAC 480-90-256 EXEMPTIONS—STAYS.
- (11) WAC 480-90-261 TEMPORARY EXEMPTION—TIME TO INSTALL SUBSTITUTE LIGHTING.
- (12) WAC 480-90-266 UTILITY TO NOTIFY CUSTOMER.
- (13) WAC 480-90-271 PETITIONS FOR EXEMPTION.
- (14) WAC 480-90-276 ACTION FOR FAILURE TO COMPLY.
- (15) WAC 480-90-281 PROCEDURE FOR UNKNOWN PROHIBITED USE.
- (16) WAC 480-90-286 FAILURE OF UTILITY TO COMPLY.

**WSR 89-08-031**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 89-15—Filed March 30, 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 this action is taken upon the recommendation of the Columbia River Compact to harvest expected returns of spring chinook. 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 75.08.070 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 30, 1989.

By Sally J. Hicks  
for Joseph R. Blum  
Director

NEW SECTION

*WAC 220-57-16000X COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, effective immediately through April 9, 1989, Bag Limit A in those waters lying east of the Buoy 10 Line to the I-5 Bridge in Vancouver.*

**WSR 89-08-032**  
**EMERGENCY RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
[Order 385—Filed March 30, 1989]

Be it resolved by the State Wildlife Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to Amendment to 1988-90 Washington game fish regulations—Columbia River, WAC 232-28-61726.

We, the State Wildlife 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 the Washington Department of Fisheries and the Oregon Department of

Fish and Wildlife took joint action on Tuesday, March 28, to extend the sport fishery for spring chinook on the Columbia River from the Astoria-Megler Bridge upstream to the I-5 Bridge. The fishery which was scheduled to close Friday, March 31, will be extended 9 days to Friday, April 9.

The sport steelhead winter season closure of March 31, on the Columbia was originally adopted to complement the spring chinook closure. Oregon has decided to extend their sport steelhead winter season through April 9, and passed a regulation on March 28, extending the existing regulations through that date. It is anticipated that an extension of the Washington sport steelhead winter season by 9 days would result in a take of no more than 50 steelhead and probably far less considering the poor river conditions we are presently experiencing.

Fish management staff recommend an extension of the sport steelhead winter season on the Columbia from the Astoria-Megler Bridge upstream to the I-5 Bridge from 12:01 a.m. Saturday, April 1, to 11:59 p.m. Sunday, April 9. All other regulations as shown in the 1988-90 game fish pamphlet would remain in effect.

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

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 30, 1989.

By Ray Ryan  
for Dr. James M. Walton  
Chairman, Wildlife Commission

NEW SECTION

*WAC 232-28-61726 AMENDMENT TO 1988-90 WASHINGTON GAME FISH REGULATIONS - COLUMBIA RIVER. Notwithstanding the provisions of WAC 232-28-617, effective at 12:01 a.m. on April 1, 1989 through 11:59 p.m. April 9, the Columbia River from the Megler-Astoria Bridge to the I-5 Bridge is open to the taking of both hatchery and wild steelhead.*

**WSR 89-08-033**

**PROPOSED RULES**

**DEPARTMENT OF GENERAL ADMINISTRATION**

[Filed March 31, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration intends to adopt, amend, or repeal rules concerning investment bonds.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 9, 1989.

The authority under which these rules are proposed is RCW 43.17.060.

The specific statute these rules are intended to implement is RCW 43.19.19367.

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 27, 1989

By: K. Wendy Holden  
Director

**STATEMENT OF PURPOSE**

Title: Chapter 236-80 WAC, Office of risk management.

Description of Purpose: Establish rules for filing and enforcement of investment bonds.

Statutory Authority: RCW 43.17.060.

Summary of Rule and Reasons Supporting Proposed Action: WAC 236-80-010, requires investment advisors to post bond prior to receiving investment funds. This will ensure performance; WAC 236-80-020, allows single bond to be filed, establishes bond rating requirement, allows similar instruments and requires investor information. Establishes consistent procedures to provide uniformity of enforcement and simplifies investor requirements; and WAC 236-80-030, established enforcement procedure for protection of state and local government investment funds.

Agency Personnel Responsible for Drafting: Margie K. Knutsen, 715 East 8th, Olympia, WA; Implementation: Gary C. Alexander, 715 East 8th, Olympia, WA; and Enforcement: K. Wendy Holden, 218 General Administration Building, Olympia, WA.

This rule is proposed by the Department of General Administration.

Comments: No public hearing is scheduled.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No effect. No small businesses appear to be effected.

Chapter 236-80 WAC  
DIVISION OF RISK MANAGEMENT

WAC	
236-80-010	Investment bonds.
236-80-020	Investment bonds—Procedures.
236-80-030	Investment bonds enforcement.

NEW SECTION

WAC 236-80-010 INVESTMENT BONDS. Any investment advisor prior to receiving funds to be invested under RCW 39.59.030 (money market or mutual funds), must post with the office of risk management, a division of general administration, a bond or other similar instrument in the amount of at least five percent of the amount invested by state or local government in the fund.

NEW SECTION

WAC 236-80-020 INVESTMENT BONDS—PROCEDURES. (1) Investment advisors who are required to file bonds under RCW 39.59.010 may file one bond with an aggregate amount for either money market or mutual funds as participation fluctuates.

(2) If the instrument filed is a bond, it must be by an approved surety or insurance company of the state of Washington, with an A+ best's rating or higher, and on file with the state insurance commissioner.

(3) Other similar instruments (as opposed to a bond for posting) will be as authorized in chapter 43.84 RCW.

(4) An investment advisor must provide his or her (a) full name, (b) name of firm, (c) full address. A notice of receipt will be sent to the investment advisor by the office of risk management, notifying them that the bond or other similar instrument has been received.

#### NEW SECTION

WAC 236-80-030 INVESTMENT BONDS ENFORCEMENT. The requirements of this chapter or failure to comply with chapter 39.59 RCW will result in immediate notice of termination to the investment advisor by the department of general administration.

**WSR 89-08-034**  
EMERGENCY RULES  
DEPARTMENT OF WILDLIFE  
(Wildlife Commission)

[Order 386—Filed March 31, 1989]

Be it resolved by the State Wildlife Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to hunting of game animals by persons of disability, WAC 232-12-828.

We, the State Wildlife 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 WAC 232-12-827, adopted last year, provided a termination date of March 31, 1989, in anticipation that modification would be required to meet new legislative requirements. Legislation (HB 2010) has cleared the house and is being scheduled for senate action. This WAC will, in effect, extend the termination date of the existing WAC, without change, until June 30, 1989, allowing for modification and adoption at the scheduled May 12 and 13, 1989, meeting of the State Wildlife Commission.

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

This rule is promulgated pursuant to RCW 77.12.010 and 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 11, 1989.

By Dr. James M. Walton  
Chairman, Wildlife Commission

#### NEW SECTION

WAC 232-12-828 HUNTING OF GAME ANIMALS BY PERSONS OF DISABILITY. (1) Preamble. *This regulation is intended to carry out the legislative policy of maximizing handicapped persons' access to recreational opportunity as codified in RCW 77.12.010. This regulation is intended to enhance the health, safety, and welfare of the general public and not that of any particular person or group of persons.*

(2) *Definitions. Terms used in this regulation are defined as follows:*

(a) A "person of disability" is a permanently disabled person who is unable to be mobile without the assistance of a wheelchair or crutches. This definition is intended to include but not be limited to those disabled person with lower extremity impairment such as paraplegics and amputees.

(b) A "disabled hunter" is a person who possesses a Disabled Hunter Permit issued by the director as well as all other required licenses, tags, and permits.

(c) A "non-disabled hunter" is a licensed hunter accompanying a disabled hunter for the purpose of assisting in retrieval, killing of game wounded by a disabled hunter, and tagging of game killed by a disabled hunter.

(3) *Disabled Hunter Permit. The director may issue a Disabled Hunter Permit to any person of disability who applies to the department and presents such evidence as the director may accept showing that the applicant is a person of disability.*

(4) *Permitted and Prohibited Activities.*

(a) *Shooting from an off-road vehicle. A disabled hunter may not possess a loaded firearm or discharge a firearm from within or upon a motor vehicle. A disabled hunter may not discharge a firearm upon, across, or along a public highway.*

(b) *Killing of game wounded by persons of disability. A non-disabled companion may accompany a disabled hunter and kill any game animal wounded by the disabled hunter. The companion must immediately notch and attach the disabled hunters' tag to the carcass of the animal. A non-disabled companion shall not possess a loaded gun in, or shoot from, a motor vehicle or off-road vehicle.*

(c) *Tagging game killed by a disabled hunter. A non-disabled companion may cut, notch, and affix tags to game animals killed by a disabled hunter.*

(d) *Retrieving game. A non-disabled companion may retrieve or assist in retrieving a game animal which has been either killed by a disabled hunter or wounded by a disabled hunter and killed by a non-disabled hunter.*

(e) *Game killed, tagged, or retrieved by a non-disabled companion who is accompanying a disabled hunter shall count against the disabled hunter's bag limit and shall not count against the non-disabled companion's bag limit.*

(f) *This regulation shall terminate and cease to be effective at 11:59 p.m. June 30, 1989.*

**WSR 89-08-035**

ADOPTED RULES

**DEPARTMENT OF ECOLOGY**

[Order DE 88-56—Filed March 31, 1989]

I, Carol Jolly, assistant director of Water and Shorelands, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Port Townsend, city of, amending WAC 173-19-2401.

This action is taken pursuant to Notice No. WSR 89-01-106 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  
Water and Shorelands

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-2401 PORT TOWNSEND, CITY OF. City of Port Townsend master program approved December 20, 1974. Revision approved March 7, 1989.

**WSR 89-08-036**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF REVENUE**

[Filed March 31, 1989]

The Department of Revenue hereby requests that new section WAC 458-16-115 filed on February 15, 1989, under WSR 89-05-052 be withdrawn in accordance with RCW 34.04.048. The rule as filed does not sufficiently address the problem.

Steven L. Frisch  
Assistant Director  
Property Tax Division

**WSR 89-08-037**

**EMERGENCY RULES  
DEPARTMENT OF REVENUE**

[Order PT 89-4—Filed March 31, 1989]

I, William R. Wilkerson, Director of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Personal property exemption—Exceptions, new WAC 458-16-115.

I, William R. Wilkerson, 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 normal adoption procedures would not give county assessors sufficient time to comply with this rule for the 1990 assessment year. The rule needs to be in place for the 1990 assessment year so that uniformity of taxation problems are avoided.

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

This rule is promulgated pursuant to RCW 84.36.110 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 84.36.865 which directs that the Department of Revenue has authority to implement the provisions of chapter 84.36 RCW.

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

APPROVED AND ADOPTED March 30, 1989.

By Steven L. Frisch  
Assistant Director

NEW SECTION

WAC 458-16-115 *PERSONAL PROPERTY EXEMPTION — EXCEPTIONS.* (1) *The personal property exemption in RCW 84.36.110 shall not be applied to:*

(a) *Houses, cabins, boathouses, boatdocks or other similar improvements which are located on publicly owned lands; or*

(b) *Floating homes.*

**WSR 89-08-038**

**EMERGENCY RULES  
INSURANCE COMMISSIONER**

[Order R 89-5—Filed March 31, 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(7) to change the effective date to July 1, 1989.

I, Dick Marquardt, Insurance Commissioner, 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 change is adopted on an emergency basis to allow insurers additional time to make necessary adjustments to comply with the rule.

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

This rule is promulgated pursuant to RCW 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 31, 1989.

Dick Marquardt  
Insurance Commissioner  
By David H. Rodgers  
Chief Deputy  
Insurance Commissioner

**AMENDATORY SECTION** (Amending Order R 89-4, filed 3/22/89)

**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)) July 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 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 period.

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

**WSR 89-08-039**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 2000—Filed March 31, 1989]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fruit storage, chapter 16-690 WAC.

This action is taken pursuant to Notice No. WSR 89-05-041 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 chapter 15.30 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 31, 1989.

By C. Alan Pettibone  
Director

**AMENDATORY SECTION** (Amending Order 893 (part), effective 10/1/62)

**WAC 16-690-015 WASHINGTON CONTROLLED ATMOSPHERE STORAGE REQUIREMENTS—ANNUAL LICENSE.** It shall be unlawful for any person to engage in the business of operating a controlled atmosphere storage warehouse or warehouses without first obtaining an annual license from the director. Such license shall expire on August 31st of any one year. ((The annual license fee shall be five dollars.))

**WSR 89-08-040**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 2001—Filed March 31, 1989]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to horticulture inspection fees, chapter 16-400 WAC.

This action is taken pursuant to Notice No. WSR 89-05-040 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 chapter 15.17 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 31, 1989.

By C. Alan Pettibone  
Director

AMENDATORY SECTION (Amending Order 1847, filed 2/28/85)

WAC 16-400-007 DEFINITION. For the purposes of this chapter districts ((one;)) two, three, and four are defined in chapter 16-458 WAC Horticultural inspection district boundaries.

AMENDATORY SECTION (Amending Order 1884, filed 4/2/86)

WAC 16-400-010 GRADE AND CONDITION CERTIFICATES—FRUITS. Charges for grade and condition certificates for all fruits shall be:

(1) The minimum charge for all fruits shall be((-)) nine dollars.

((District one .....	\$6.00
District two .....	\$7.00
District three .....	\$8.00
District four .....	\$8.00))

(2) For all fresh market fruits of apples, pears, and soft fruit in containers—wrapped, place pack, face and fill, in bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or in bags, per cwt. or fraction thereof:

((Districts  
1 — 2 — 3 — 4

Apples .....	8.75¢	10¢	11¢	11¢
Apricots .....	9.75¢	11¢	12¢	12¢
Cherries, nectarines and peaches .....	15¢	17.25¢	18.75¢	18.75¢
Pears .....	7.75¢	9.0¢	9.75¢	9.75¢
Plums, prunes, other soft fruits, grapes, and berries .....	11.66¢	13.4¢	14.60¢	14.60¢))

(a) For federal—state certification:

Apples .....	13¢
Apricots, cherries, nectarines and peaches .....	21¢
Pears .....	12¢
Plums, prunes, other soft fruits, grapes, and berries .....	16¢

(b) For state certification:

Apples .....	12¢
Pears .....	11¢

(3) For all apples, pears, stone fruits, berries, and grapes in bulk or in containers for processing, or for quality condition and/or size determination, charges shall be two dollars fifty cents per ton net weight or fraction thereof. When inspection is requested only for

the purpose of verifying the product, conveyance, markings, or other factors not related to quality, the charges shall be at the hourly rate but not less than the minimum certificate charge of nine dollars.

AMENDATORY SECTION (Amending Order 1884, filed 4/2/86)

WAC 16-400-040 GRADE AND CONDITION CERTIFICATES—VEGETABLES. Charges for grade and condition certificates for all vegetables shall be:

(1) The minimum charge for all vegetables shall be((-)) nine dollars.

((District one .....	\$6.00
District two .....	\$7.00
District three .....	\$8.00
District four .....	\$8.00))

(2) Charges for grade and condition certificates for fresh market vegetables in containers—wrapped, place pack, face and fill, in bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins or in bags per cwt. or fraction thereof:

((Districts

1 — 2 — 3 — 4

Asparagus .....	11.66¢	13.4¢	14.6¢	14.6¢
Cantaloupes, and Corn .....	10¢	11.5¢	12¢	12¢
Onions .....	5¢	5.75¢	6¢	6¢
Potatoes, and Seed Potatoes .....	4¢	4.6¢	5¢	5¢
Processing Potatoes .....	4¢	4.6¢	4¢	5¢
Complete inspection (rate shall be reduced for level of service required)				
Tomatoes .....	12.5¢	14.4¢	15¢	15¢))

(a) For federal—state certification:

Asparagus .....	21¢
Cantaloupes, and Corn .....	12.5¢
Onions .....	8¢
Potatoes, and Seed Potatoes .....	6¢
Processing Potatoes .....	6¢

Complete inspection (rate shall be reduced for level of service required)

Tomatoes .....	19¢
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(b) For state certification:

Asparagus .....	19¢
-----------------	-----

(3) Inspection fees for cabbage, carrots, cauliflower, celery, cucumbers, lettuce, rhubarb, rutabagas, squash, watermelons, etc., shall be at the hourly rate ((as follows:)) of twenty dollars.

((District one .....	\$12.00
District two .....	\$14.00
District three .....	\$18.00
District four .....	\$16.00))

(4) Inspection for quality, condition, and/or size determination, whether in bulk or in containers, for all vegetables for processing, except potatoes, charges shall be two dollars fifty cents per ton net weight or fraction thereof. When inspection is requested only for the purpose of verifying the product, conveyance, markings, or other factors not related to quality, the charges shall be at the hourly rate, but not less than the minimum certificate charge of nine dollars.



AMENDATORY SECTION (Amending Order 1884, filed 4/2/86)

WAC 16-400-100 CERTIFICATES. Certificate charges shall be in accordance with the following provisions:

(1) Consolidation certificates shall be charged as specified in WAC 16-400-010 and 16-400-040 and shall have an additional charge of three dollars for each additional local lot.

(2) Condition certificate charges shall be two-thirds of the grade and condition certificates with the following exceptions:

(a) Previously inspected lots shall have a minimum charge of ~~((:))~~ nine dollars.

<del>((District one</del> .....	<del>\$6.00</del>
<del>District two</del> .....	<del>\$7.00</del>
<del>District three</del> .....	<del>\$8.00</del>
<del>District four</del> .....	<del>\$8.00))</del>

(b) When the lot has had no prior inspection for quality or grade and it is requested that the certificate carry out-bound car, truck, or state lot number, the grade and condition certificate schedule shall apply.

(c) Out-of-state products reported on state certificates shall be charged on the applicable grade and condition certificate schedule, except there shall be an hourly charge of ~~((:))~~ twenty dollars.

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

(3) Car hook-up, loading or unloading certificate shall be charged at the rates specified in subsection (2)(a) of this section.

(4) Sanitary and quarantine certificate charges for fruits and vegetables shall be:

(a) ~~((Four))~~ Six dollars for the issuance of a certificate, plus the hourly rates specified in WAC 16-400-210 (1)(a) when the shipment is not covered by federal-state or state certificates.

(b) ~~((Four))~~ Six dollars per set when the shipment is covered by federal-state or state certificates.

(5) Container weight, or checkloading certificates shall be charged at the rates specified in WAC 16-400-210 (1)(a).

(6) Federal-state certification shall meet the criteria for sampling as established by United States Department of Agriculture, Agricultural Marketing Service. When the federal-state inspector or inspector's aide must physically obtain samples from lots blocked out for loading or from lots in storage, charges of seven and one-half cents per cwt. shall be made in addition to inspection fees. When assistance is provided by the applicant's personnel, charges for sampling shall be reduced accordingly.

AMENDATORY SECTION (Amending Order 1845, filed 12/31/84, effective 2/1/85)

WAC 16-400-150 SHIPPING PERMITS AND CERTIFICATES OF COMPLIANCE—FRUITS

AND VEGETABLES. By law, each shipment of apples, apricots, Italian prunes, peaches, pears, certified seed potatoes, and asparagus shall be covered by a shipping permit for grade; cherries shall have a shipping permit indicating freedom from cherry fruit fly larvae, whether certified or not. Shipments to processors of apricots, cherries, peaches, prunes, and asparagus do not require a shipping permit. If the lot has been certified, a permit or certificate of compliance shall be issued without additional charge. If the lot has not been certified, the basis of charges shall be:

(1) The minimum charge shall be two dollars  fifty cents.

(2) Two-thirds the rate for state grade and condition certificates shall apply.

(3) Permit to ship apples and/or pears to a byproduct plant outside the district shall be three dollars.

(4) On certified seed potatoes no charge shall be made for shipping permits when seed potatoes are grown, graded, and shipped in full compliance with the provisions of the rules for the certification of seed potatoes, and the grades and standards for certified seed potatoes as listed in chapter 16-324 WAC.

AMENDATORY SECTION (Amending Order 1884, filed 4/2/86)

WAC 16-400-210 OTHER CHARGES. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, ~~((FV-294))~~ phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of ~~((:))~~ twenty dollars.

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

(b) Time allowance - Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of ~~((:))~~ twenty dollars.

<del>((District one</del> .....	<del>\$12.00</del>
<del>District two</del> .....	<del>\$14.00</del>
<del>District three</del> .....	<del>\$18.00</del>
<del>District four</del> .....	<del>\$16.00))</del>

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges - The minimum charge for supervision of fumigation shall be eighteen dollars ~~((for the first one and one-half hours. Time over the first one and one-half hours or))~~. Additional or unnecessary stand-by time shall be charged as specified in subsection

(1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section.

(4) Seed sampling fees shall be arranged with the chemical and plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to ~~((the following:))~~ twenty-seven dollars.

<del>((District one</del> .....	<del>\$18.00</del>
<del>District two</del> .....	<del>\$20.00</del>
<del>District three</del> .....	<del>\$24.00</del>
<del>District four</del> .....	<del>\$22.00))</del>

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February). ~~((NO SERVICE will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5:00 p.m. on previous day.))~~

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per

transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

**AMENDATORY SECTION (Amending Order 1845, filed 12/31/84, effective 2/1/85)**

WAC 16-400-270 COPIES. Charges for copies made shall be:

(1) Extra copies—After original typing of a certificate a charge of ~~((two))~~ four dollars per set shall be made for extra copies when requested by the original applicant of the certificate or other financially interested party. Copy machine copies of inspectors' notes, certificates or related documents when requested by applicant may be charged twenty-five cents per copy.

(2) Retyping or reissuance—When, through no fault of the inspection service, retyping or reissuance is necessary, such service shall be rendered for ~~((two))~~ four dollars per set.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 16-400-050 GRADE AND CONDITION CERTIFICATES—DEFENSE SUBSISTENCE SUPPLY CENTER OR OTHER FEDERAL AGENCIES.

**WSR 89-08-041**

**ADOPTED RULES**

**BOARD OF PILOTAGE COMMISSIONERS**

[Order 89-2, Resolution No. 89-2—Filed March 31, 1989]

Be it resolved by the Board of Pilotage Commissioners, acting at the Colman Dock, Pier 52, Seattle, Washington, that it does adopt the annexed rules relating to pilotage rates of Puget Sound pilotage district, WAC 296-116-300.

This action is taken pursuant to Notice No. WSR 89-01-002 filed with the code reviser on December 8, 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 88.13.035 [88.16.035] and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 10, 1989.

By Marjorie T. Smitch  
Assistant Attorney General

**AMENDATORY SECTION** (Amending Order 88-1, Resolution No. 88-1, filed 2/16/88, effective 3/18/88)

WAC 296-116-300 PILOTAGE RATES FOR THE PUGET SOUND PILOTAGE DISTRICT. These rates shall become effective on (~~March 18, 1988~~) May 1, 1989.

CLASSIFICATION	RATE
Ship length overall (LOA) Charges:	per LOA rate schedule in this section
Boarding fee:	\$ 25.00
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	
Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.	
Waterway and bridge charges:	
Ships up to 90' beam:	
A charge of ( <del>(\$132.00)</del> ) \$134.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle, south of Eleventh Street Bridge in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel	

CLASSIFICATION	RATE
movements required to transit through bridges shall have an additional charge of ( <del>(\$63.00)</del> ) <u>\$64.00</u> per bridge.	
Ships 90' beam and/or over:	
A charge of ( <del>(\$178.00)</del> ) \$181.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle and south of Eleventh Street Bridge in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ( <del>(\$125.00)</del> ) <u>\$127.00</u> per bridge.	
(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)	
Two pilots required:	
In a case where two pilots are employed for a single vessel waterway or bridge transit, a second pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.	
Compass adjustment	( <del>(\$177.00)</del> ) \$180.00
Radio direction finder calibration	( <del>(\$177.00)</del> ) \$180.00
Launching vessels	( <del>(\$267.00)</del> ) \$271.00
Trial trips, 6 hours or less	( <del>(\$ 84.00)</del> ) \$ 85.00
(Minimum ( <del>(\$504.00)</del> ) <u>\$511.00</u> )	
per hr.	
Trial trips, over 6 hours (two pilots)	( <del>(\$168.00)</del> ) \$170.00
per hr.	
Shilshole Bay — Salmon Bay	( <del>(\$164.00)</del> ) \$106.00
Salmon Bay — Lake Union	( <del>(\$ 82.00)</del> ) \$ 83.00
Lake Union — Lake Washington (plus LOA zone from Webster Point)	( <del>(\$164.00)</del> ) \$106.00
Cancellation charge	LOA Zone I
Cancellation charge — Port Angeles (when pilot is ordered and vessel proceeds without stopping for pilot.)	LOA Zone I
Docking delay after anchoring:	( <del>(\$ 84.00)</del> ) \$ 85.00
per hr.	
Applicable harbor shift rate to apply, plus ( <del>(\$84.00)</del> ) \$85.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ( <del>(\$84.00)</del> ) <u>\$85.00</u> for every hour or fraction thereof.	
Sailing delay:	( <del>(\$ 84.00)</del> ) \$ 85.00
per hour	
No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ( <del>(\$84.00)</del> ) <u>\$85.00</u> for every hour or fraction thereof.	
	( <del>(\$ 84.00)</del> ) \$ 85.00
per hour	
Slowdown:	
When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ( <del>(\$84.00)</del> ) <u>\$85.00</u> per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.	

CLASSIFICATION

RATE

Super ships:

20,000 to 50,000 gross tons:  
 Additional charge to LOA zone mileage of ~~(\$0.0443)~~ \$0.0449 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:  
 In excess of 50,000 gross tons, the charge shall be ~~(\$0.0530)~~ \$0.0538 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles:

~~(\$ 84.00)~~  
 \$ 85.00  
 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ~~(\$84.00)~~ \$85.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ 112.00
Bangor	65.00
Bellingham	124.00
Bremerton	34.00
Cherry Point	146.00
Dupont	65.00
Edmonds	23.00
Everett	42.00
Ferndale	134.00
Manchester	51.00
Mukilteo	41.00
Olympia	84.00
Point Wells	23.00
Port Gamble	60.00
Port Townsend (Indian Island)	85.00
Semiahmoo (Blaine)	153.00
Tacoma	43.00
Tacoma Smelter	49.00
Winslow	34.00

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
<del>((Up to 449</del>	125	195	339	508	685	891
450 - 459	127	200	342	516	695	894
460 - 469	131	203	345	523	706	898
470 - 479	136	207	350	535	709	901
480 - 489	139	212	352	544	714	904
490 - 499	142	214	356	554	721	909
500 - 509	148	218	362	562	727	915
510 - 519	150	223	366	569	733	918
520 - 529	152	231	372	572	740	927
530 - 539	158	234	377	578	752	936
540 - 549	161	238	383	585	765	944
550 - 559	164	244	386	593	771	953
560 - 569	170	254	394	598	779	963
570 - 579	173	258	398	600	786	969
580 - 589	180	262	405	605	792	980
590 - 599	188	267	408	609	802	990
600 - 609	195	275	414	611	811	996
610 - 619	206	278	421	615	820	1005
620 - 629	215	282	427	619	829	1015
630 - 639	226	288	431	621	836	1026
640 - 649	236	294	436	624	846	1033
650 - 659	250	300	443	629	855	1043
660 - 669	258	303	448	632	864	1051
670 - 679	265	310	452	643	873	1058
680 - 689	270	316	458	650	881	1068
690 - 699	278	321	463	661	891	1089
700 - 719	291	331	473	668	907	1103
720 - 739	308	342	484	677	927	1121
740 - 759	321	356	495	685	944	1141
760 - 779	334	371	506	695	963	1157
780 - 799	350	384	516	706	980	1177
800 - 819	364	398	525	711	996	1194
820 - 839	377	411	537	721	1015	1209
840 - 859	393	428	548	729	1033	1229
860 - 879	406	443	559	749	1051	1246
880 - 899	421	457	569	766	1068	1265
900 - 919	434	470	579	784	1089	1283
920 - 939	449	484	593	802	1103	1300
940 - 959	463	498	601	820	1121	1317
960 - 979	476	513	613	836	1141	1336
980 - 999	493	525	622	855	1157	1353
1000 & over	506	543	634	873	1177	1371
Up to 449	127	198	344	515	695	904
450 - 459	129	203	347	523	705	907
460 - 469	133	206	350	531	716	911
470 - 479	138	210	355	543	719	914
480 - 489	141	215	357	552	724	917
490 - 499	144	217	361	562	731	922
500 - 509	150	221	367	570	737	928
510 - 519	152	226	371	577	744	931
520 - 529	154	234	377	580	751	940
530 - 539	160	237	382	586	763	949
540 - 549	163	241	389	593	776	958
550 - 559	166	248	392	602	782	967
560 - 569	172	258	400	607	790	977
570 - 579	175	262	404	609	797	983
580 - 589	183	266	411	614	803	994
590 - 599	191	271	414	618	814	1004
600 - 609	198	279	420	620	823	1010
610 - 619	209	282	427	624	832	1019
620 - 629	218	286	433	628	841	1030
630 - 639	229	292	437	630	848	1041
640 - 649	239	298	442	633	858	1048
650 - 659	254	304	449	638	867	1058
660 - 669	262	307	454	641	876	1066
670 - 679	269	314	459	652	886	1073
680 - 689	274	321	465	659	894	1083
690 - 699	282	326	470	671	904	1105
700 - 719	295	336	480	678	920	1119
720 - 739	312	347	491	687	940	1137

(a) Interport shifts: Transportation paid to and from both points.

(b) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.

(c) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(d) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.60 per mile.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
740 - 759	326	361	502	695	958	1157
760 - 779	339	376	513	705	977	1174
780 - 799	355	390	523	716	994	1194
800 - 819	369	404	533	721	1010	1211
820 - 839	382	417	545	731	1030	1226
840 - 859	399	434	556	739	1048	1247
860 - 879	412	449	567	760	1066	1264
880 - 899	427	464	577	777	1083	1283
900 - 919	440	477	587	795	1105	1301
920 - 939	455	491	602	814	1119	1319
940 - 959	470	505	610	832	1137	1336
960 - 979	483	520	622	848	1157	1355
980 - 999	500	533	631	867	1174	1372
1000 & over	513	551	643	886	1194	1391

**WSR 89-08-042**

**ADOPTED RULES**

**BOARD OF PILOTAGE COMMISSIONERS**

[Order 89-3, Resolution No. 89-3—Filed March 31, 1989]

Be it resolved by the Board of Pilotage Commissioners, acting at the Colman Dock, Pier 52, Seattle, Washington, that it does adopt the annexed rules relating to tariffs and pilotage rates for the Grays Harbor pilotage district, WAC 296-116-185.

This action is taken pursuant to Notice No. WSR 89-01-001 filed with the code reviser on December 8, 1989 [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 88.16.035 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 10, 1989.

By Marjorie T. Smitch  
Assistant Attorney General

**AMENDATORY SECTION (Amending Order 88-2, Resolution No. 88-2, filed 2/17/88, effective 3/21/88)**

WAC 296-116-185 TARIFFS, AND PILOTAGE RATES FOR THE GRAYS HARBOR PILOTAGE DISTRICT. The following rates shall become effective on (~~March 21, 1988~~) May 1, 1989.

**CLASSIFICATION OF PILOTAGE SERVICE RATE**

**Piloting of vessels in the inland waters and tributaries of Grays Harbor:**

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be (~~(\$38.56)~~) \$35.13 per meter (or (~~(\$11.75)~~) \$10.70 per foot) and the tonnage charge shall be (~~(\$0.1230)~~) \$0.1121 per net registered ton. The minimum net registered tonnage charge is (~~(\$430.00)~~) \$392.00. The charge for an extra vessel (in case of tow) is (~~(\$246.00)~~) \$224.00.

**Boarding fee:**

Per each boarding/deboarding from a boat . . . . . (~~(\$ 185.00)~~)  
\$ 169.00  
~~((Boat fee surcharge per each boarding/deboarding from a boat . . . . . \$ 25.00))~~

**Harbor shifts:**

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage . . . . . (~~(\$ 308.00)~~)  
\$ 281.00  
Delays per hour . . . . . (~~(\$ 74.00)~~)  
\$ 67.00  
Cancellation charge (pilot only) . . . . . (~~(\$ 123.00)~~)  
\$ 112.00  
Cancellation charge (pilot boat only) (~~(\$ 369.00)~~)  
\$ 336.00

**Travel allowance:**

Boarding or deboarding a vessel off Grays Harbor entrance . . . . . (~~(\$ 57.00)~~)  
\$ 52.00  
Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$430.00 for each day or fraction thereof, and the travel expense incurred . . . . . (~~(\$ 430.00)~~)  
\$ 392.00

**Bridge transit:**

Charge for each bridge transited . . . . . (~~(\$ 135.00)~~)  
\$ 123.00

**Miscellaneous:**

The balance of amounts due for pilotage rates not paid within 45 days of invoice will be assessed at 1 1/2% per month late charge. (~~At least a four hour notice shall be given for an arrival, sailing, or change of ETA or ETD.~~)

**WSR 89-08-043**  
**ADOPTED RULES**  
**CEMETERY BOARD**

[Order PM 830—Filed March 31, 1989]

Be it resolved by the Washington State Cemetery Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to the repealing of WAC 98-12-010 and 98-20-010; new section WAC 98-14-100; and amending WAC 98-08-150, 98-11-010, 98-14-090, 98-16-020, 98-20-020, 98-40-020, 98-40-030, 98-40-040, 98-40-050, 98-40-070 and 98-40-080.

This action is taken pursuant to Notice No. WSR 89-05-054 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 68.05.105 which directs that the Washington State Cemetery Board has authority to implement the provisions of chapter 68.05 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 28, 1989.

By B. David Daly  
 Chairman

AMENDATORY SECTION (Amending Rule .08.150, effective 2/8/60)

WAC 98-08-150 SUBPOENAS—WHERE PROVIDED BY LAW—FORM. Every subpoena allowed by RCW ((68-05-150)) 68.05.105 shall state "cemetery board" and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

AMENDATORY SECTION (Amending Order 72-1, filed 9/8/72)

WAC 98-11-010 FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONENDOWMENT CARE CEMETERIES. Any cemetery authority (as defined in RCW 68.04.190) which desires to obtain a certificate of authority to operate a cemetery (as required by RCW ((68-05-200)) 68.05.115, 68.05.210, and 68.05.215), but which does not deposit in an endowment care fund the minimum sum required by RCW 68.40.010 of an endowment care cemetery shall be required by the cemetery board, in the exercise of the powers conferred upon it by RCW 68.05.210, as a condition precedent to the granting of such certificate of authority, to present to the cemetery board satisfactory proof that the cemetery authority has, at the time of its application for such certificate of authority or within a reasonable time prior thereto, a corporate net worth, determined by

commonly accepted accounting standards and criteria, in excess of one hundred thousand dollars: PROVIDED, That nothing herein shall apply to any corporation, association, society or municipal corporation referred to in RCW ((68-05-280)) 68.05.400: PROVIDED FURTHER, That any cemetery authority which is denied a certification of authority under the provisions hereof, shall have the right to appeal from such denial to the superior court of the county in which the cemetery authority is located or proposed to be located, such appeal to be taken within thirty days after the denial of the certificate of authority.

AMENDATORY SECTION (Amending Order 106, filed 1/5/83)

WAC 98-14-090 RECORDS OF PREARRANGEMENT TRUST FUNDS. Any cemetery authority maintaining a prearrangement trust fund shall, at all times, maintain a current accounting system in accordance with generally accepted accounting standards and principles. The system shall include, but not be limited to, all of the following:

(1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.

(2) A sales register or journal showing the recording of all individual sales including date of sale, gross sales price, and detail of items sold.

(3) An individual account record which records the amount of the prearrangement agreement, all payments received, the amount due the prearrangement trust fund and the distribution of payments received to the prearrangement trust fund or the cemetery authority in accordance with the method then allowed by the cemetery authority's prearrangement license.

(4) A cash receipts journal which shall show each payment received from individual customers.

(5) Schedules or documentation reconciling to and showing detail of each payment to and withdrawal from the prearrangement trust fund including date of payment, individual customer name, and amounts.

(6) Schedules and documentation showing detail of prearrangement trust fund asset management, renewal (rollover), and earnings. When assets are held in instruments that return a mix of principal and earnings throughout the period of holding, schedules shall be maintained reconciling principal to opening deposit.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall be retained and available for inspection for a period of seven years and shall be in such form as to be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

NEW SECTION

WAC 98-14-100 QUALIFICATIONS OF APPLICANT FOR PREARRANGEMENT SALES LICENSE. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid, subsisting, and

unsuspended certificate of authority to operate a cemetery in this state issued by the Washington state cemetery board.

**AMENDATORY SECTION** (Amending Order 104, filed 3/9/81)

WAC 98-16-020 HYBRID UNIT AS FUNERAL MERCHANDISE OR SERVICES. A hybrid unit shall be considered funeral merchandise or services as defined in RCW ((~~48.40.002~~ (2)(b))) 18.39.010(8), unless specifically designated, detailed and represented to the contrary in cemetery prearrangement contracts: PROVIDED, HOWEVER, That hybrid units not subject to regulation under chapter ((~~48.40~~) 18.39 RCW shall, if applicable, be subject to chapter 68.46 RCW and considered cemetery merchandise or services. Such cemetery prearrangement contracts, advertising, and other representations shall clearly state which items of the hybrid unit are being sold as funeral merchandise or services and which are being sold as cemetery merchandise or services.

**AMENDATORY SECTION** (Amending Order 109, filed 8/19/86)

WAC 98-20-020 DEFINITIONS—SALE OR TRANSFER OF OWNERSHIP OR CONTROL OF ANY CEMETERY. For purposes of RCW ((~~68.05-255~~) 68.05.115, sale or transfer of ownership or control of any cemetery authority, the following definitions shall apply:

(1) SALE: The purchase of a controlling interest (fifty percent or more) of assets or stock of an existing cemetery corporation.

(2) OWNERSHIP: The individual or individuals who own the stock of the cemetery corporation. Any one individual who owns fifty percent or more of the stock is considered an owner. When percentages of stock ownership change, anyone moving into a majority (fifty percent or more) position shall be considered the new owner, and thus subject to the provisions of RCW ((~~68.05-255~~) 68.05.115.

(3) CONTROL: The person or entity who has fifty percent or more of the ownership, or has acquired the right to sell the corporation or its assets.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 98-20-010 REMOVAL OF DEDICATION.

**AMENDATORY SECTION** (Amending Order 108, filed 9/6/85)

WAC 98-40-020 TERMINOLOGY. The following definitions shall apply in this chapter:

(1) AUTHORIZING AGENT(S):

The person(s) legally entitled to order the cremation of the human remains. (See RCW ((~~68.08-160~~) 68.50.160)

(2) CREMATED REMAINS:

The remaining bone fragments after cremation in a crematory. (See RCW 68.04.030)

(3) CREMATION:

"Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters; provided, that if a person entitled to possession of such remains under the provisions of RCW ((~~68.08-245~~) 68-50.270 is going to place the cremated remains in a cemetery, mausoleum, columbarium or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply. (See RCW 68.04.110)

(4) CREMATION CHAMBER:

The enclosed space within which the cremation process takes place.

(5) CREMATION CONTAINER:

The case in which the human remains should be delivered to the crematory to be placed in the cremation chamber for cremation. The cremation container shall meet the following standards:

(a) It shall be composed of a suitable combustible material. If the remains are delivered to the crematory in a noncombustible container, the authorizing agent shall be, or have been, informed of the disposition of the container if it is not actually used in the cremation process. Any transfer of human remains to combustible containers at the crematory shall be in accordance with the provisions of chapter 18.39 RCW, applicable health laws and regulations adopted hereunder.

(b) It shall be rigid enough for handling with ease.

(c) It shall assure protection to the health and safety of the crematory operators and others.

(d) It shall provide proper covering for the human remains.

(e) It shall meet moral codes for respect and dignity.

(6) CREMATORY AUTHORITY:

The legal entity or the authorized representative of the legal entity, who conducts the cremation and who is properly licensed by the state of Washington to do so.

(7) CREMATORY OR CREMATORIUM:

The building or room(s) that house the cremation chamber. (See RCW 68.04.070, 68.04.080 and 68.04.090 and chapter 68.28 RCW and RCW ((~~68.48-050~~) 68.05.185.)

(8) HOLDING FACILITY:

An area designated for the retention of human remains prior to cremation within the crematory facilities. The area shall:

(a) Comply with any applicable public health laws.

(b) Preserve the dignity of the human remains; and

(c) Recognize the personal integrity and health of the crematory authority personnel operating the crematory.

(9) HUMAN REMAINS:

The body of a deceased person. (See RCW 68.04.020)

(10) PROCESSED REMAINS:

The end result of pulverization, where the residue from the cremation process is cleaned leaving only bone fragments reduced to five millimeters or less. (See RCW 68.04.030)

(11) SEALABLE CONTAINER:

Any container in which processed remains can be placed and sealed so as to prevent leakage of processed remains or the entrance of foreign materials.

(12) RULES AND REGULATIONS:

The crematory authority may make, adopt, amend, add to, revise or modify, and enforce rules and regulations as necessary for proper operation of the crematory and to implement the provisions of the RCW and chapter 98-40 WAC in regard to cremations and the handling and custody of human remains. (See RCW 68.20.060)

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-030 REMOVAL AND IDENTIFICATION OF HUMAN REMAINS. (1) Immediately upon taking custody of human remains, a crematory Authority shall verify that the human remains bear a means of identification attached to the cremation container or to the remains. A crematory authority shall not accept unidentified human remains. (See RCW ((~~68-08-170~~)) 68.50.170 and ((~~68-08-180~~)) 68.50.180) Upon accepting human remains for cremation, the crematory shall make a permanent signed record of the color, shape and outside covering of any casket consumed with such human remains. (See RCW ((~~68-20-100~~)) 68.50.250)

(2) Materials identifying the human remains placed in the custody of a crematory authority should contain the following information: (See RCW ((~~68-08-240~~)) 68.50.240)

- (a) Name of deceased;
- (b) Date of death;
- (c) Place of death;
- (d) Name and relationship of authorizing agent;
- (e) Name of firm engaging crematory services.

(3) If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall satisfy itself that identification has been made as described in WAC 98-40-030(2) and thereafter shall place or ensure that appropriate identification has been placed upon the exterior of the cremation container.

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-040 HOLDING HUMAN REMAINS FOR CREMATION. (1) When the crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall provide a holding facility as defined in WAC 98-40-020(8) and ((chapter {Title})) Title 68 RCW and chapter 18.39 RCW.

(2) Human remains designated for cremation will be cremated within a reasonable time after death. (See RCW ((~~68-08-110~~)) 68.50.110)

(3) A crematory authority shall not hold the human remains for cremation unless it is contained within an individual, rigid and closed cremation container as defined in WAC 98-40-020(5).

(4) A crematory authority shall not accept for holding a cremation container from which there is any evidence

of leakage of the body fluids from the human remains therein.

(5) Human remains that are not embalmed shall be held only within a refrigerated facility or in compliance with applicable public health regulations.

(6) Holding facilities shall be secure from access by unauthorized persons.

AMENDATORY SECTION (Amending Order PM 714, filed 3/9/88)

WAC 98-40-050 CREMATION OF HUMAN REMAINS. (1) Cremation will not take place until the necessary permits and consents are issued by the health department and/or coroner or prosecuting attorney. (See RCW ((~~68-08-108~~)) 68.50.108 and 70.58.230)

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains shall be verified by the crematory authority and identification of the human remains being cremated shall be placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

(3) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050 (4) and (5).

(4) A crematory authority may simultaneously cremate more than one human remains within the same cremation chamber only upon having received written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for commingling of the products of the cremation process.

(5) Simultaneous cremation of more than one human remains within the same cremation chamber may be made without the authorizations required in WAC 98-40-050 (3) and (4) if equipment, techniques, or other devices are employed that keep the human remains separate and distinct before and during, and recoverable cremated remains separated and distinct after the cremation process.

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-070 PACKAGING AND STORAGE OF CREMATED REMAINS. (1) The entire cremated remains or processed remains shall be placed in a sealable container as defined in WAC 98-40-020(11) or in such container as may have been ordered by the authorizing agent, together with the identification of the cremated remains.

(2) Should the cremated remains or processed remains not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the cremated remains or processed remains and then securely closed.

(3) If the entire cremated remains or processed remains will not fit within the dimensions of the designated receptacle, the remainder shall be returned either in a



separate container, or upon written permission of the authorizing agent, be disposed of according to the established procedures of the crematory authority.

(4) When a temporary container is used to return the cremated remains or processed remains, it is recommended that the container be placed within a sturdy box and all box seams taped closed to increase the security and integrity of that container. The outside of the container shall be clearly identified with the name of the deceased person whose cremated remains or processed remains are contained therein.

(5) Cremated remains or processed remains held by a crematory authority or cemetery pending final disposition shall be handled in accordance with RCW ((68-48-050)) 68.05.185.

**AMENDATORY SECTION** (Amending Order 108, filed 9/6/85)

**WAC 98-40-080 DISPOSITION OF CREMATED REMAINS.** (1) A crematory authority shall keep an accurate record of all cremations performed, including disposition of the remains, as required by law. (See RCW ((68-08-240)) 68.50.240)

(2) Forms granting authority to cremate may contain notification of the disposition procedure in WAC 98-40-080(3).

(3) When cremated remains or processed remains of any dead human body have been in the possession of a crematory authority, funeral director or cemetery as originally authorized by the authorizing agent(s) without instructions or payment for final disposition for a period of two years or more (see RCW ((68-08-230)) 68.50.230) the crematory authority, funeral director, cemetery authority or other entity holding cremated remains or processed remains of persons other than their relatives may:

(a) Endeavor to contact the authorizing agent(s) by registered mail requesting disposition instructions and informing the authorizing agent(s) of the procedures that may be followed if disposition instructions are not received.

(b) If contact cannot be made or disposition instructions are not made within 60 days of the initiation of the contact process, the crematory authority, funeral director or cemetery authority, or other entity holding cremated remains or processed remains of persons other than their relatives, may arrange for permanent disposition of the cremated remains or processed remains in a cemetery established in accordance with Title 68 RCW. Such disposition may be in an individual, common, or community grave, crypt or niche from which individual recovery of the cremated remains or processed remains may or may not be possible. No entity making disposition of remains under this procedure shall be liable for the nonrecoverability of any cremated remains or processed remains.

(c) A record of the name, place of death, crematory authority and location of the disposition shall be maintained as permanent records by both the cemetery and crematory authority, funeral director or other entity

holding cremated remains or processed remains of persons other than their relatives.

(4) With written permission from the authorizing agent, a crematory may dispose of cremated remains or processed remains in any legal manner. (See RCW ((68-08-130)) 68.50.130 and ((68-08-245)) 68.50.270)

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 98-12-010 ENDOWMENT CARE TRUST FUNDS—ALTERATION OF IDENTITY OF TRUSTEE—NOTICE REQUIRED.**

**WSR 89-08-044  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed March 31, 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 388-82-140 | Qualified Medicare beneficiaries eligible for Medicare cost sharing. |
| Amd | WAC 388-83-032 | Needy infants, children and pregnant women;                          |

that the agency will at 10:00 a.m., Tuesday, May 9, 1989, in the OB-2, Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 10, 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 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: March 31, 1989  
By: Leslie F. James, Director  
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-82-140 and 388-83-032.

Purpose: To update the optional categorically needy (OCN) and qualified Medicare beneficiary (QMB) programs' income requirements to the 1989 federal poverty income level as required by Omnibus Budget Reconciliation Act (OBRA) of 1981.

Reason: OBRA of 1981 requires an annual updating of the federal poverty level guidelines. The income requirements for the OCN and QMB programs are based on these guidelines.

Statutory Authority: RCW 74.08.090.

Summary: For the QMB monthly income requirements, 85% of the 1989 poverty income level for a family size of one is \$424; two, \$568; more than two members, add \$145 for each additional member. For the OCN monthly income requirements, 90% of the 1989 poverty income level for a family size of one is \$449; two, \$602; three, \$755; four, \$908; five, \$1,061; six, \$1,214; seven, \$1,367; eight, \$1,520; and over eight, add \$153 for each additional member.

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 federal law, 1989 Federal Poverty Income Level.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2758, filed 2/13/89)

WAC 388-82-140 QUALIFIED MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICARE COST SHARING. The department shall provide Medicare cost sharing under WAC 388-81-060(2) for an individual:

- (1) Meeting the general nonfinancial requirements under chapter 388-83 WAC; and
(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act; and
(3) Having resources not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC; and
(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding eighty-five percent of the poverty income guidelines as published and updated by the secretary of health and human services. Eighty-five percent of the ((1988)) 1989 poverty income guidelines is:

Table with 2 columns: Family Size, Monthly. Rows: (a) One \$ ((409)) 424, (b) Two ((548)) 568, (c) For family units with more than two members, add \$((139.00)) 145.00 to the monthly income for each additional member.

AMENDATORY SECTION (Amending Order 2730, filed 11/18/88)

WAC 388-83-032 NEEDY INFANTS, CHILDREN AND PREGNANT WOMEN. (1) The department shall find the following groups eligible for Medicaid as categorically needy, if they meet the income and resource requirements of this section:

- (a) Effective July 1, 1987:
(i) Women during pregnancy and during the sixty-day period beginning on the last day of pregnancy((:)); and
(ii) Infants under one year of age.

(b) Effective October 1, 1988, children ((under three)) two years of age and under.

(2) Income eligibility:
(a) Total family income shall not exceed ninety percent of the poverty income guidelines as published and updated by the secretary of health and human services. Ninety percent of the ((1988)) 1989 poverty income guidelines is:

Table with 3 columns: Family Size, Monthly. Rows: (i) One \$ ((433.00)) 449.00, (ii) Two ((580.00)) 602.00, (iii) Three ((727.00)) 755.00, (iv) Four ((874.00)) 908.00, (v) Five ((1,021.00)) 1,061.00, (vi) Six ((1,168.00)) 1,214.00, (vii) Seven ((1,315.00)) 1,367.00, (viii) Eight ((1,462.00)) 1,520.00

(ix) For family units with ((more than eight)) nine members or more, add \$((147.00)) 153.00 to the monthly income for each additional member.

(b) The department shall ((determine family income)):
(i) Determine family income according to AFDC methodology except for the exclusions ((m)) under WAC 388-83-130 (5) and (6)((:)); and

(ii) ((Shall)) Not use the costs incurred for medical care or for any other type of remedial care to reduce the family income.

(3) Resource eligibility:
(a) The total value of the family's countable resources shall not exceed five thousand dollars((:)); and

(b) ((Countable resources are limited to)) The Department shall count as resources only cash, savings accounts, checking accounts, and certificates of deposit((:));

(c) The department shall not consider other resources in determining the eligibility of groups included in subsection (1) of this section).

(4) During pregnancy and during the sixty-day period beginning on the last day of pregnancy, changes in a pregnant woman's income or living situations shall not affect eligibility for medical assistance((: during pregnancy or during the sixty-day period beginning on the last day of pregnancy));

(a) Once a pregnant woman is determined eligible under this section((:)); or

(b) If at any time while eligible for and receiving medical assistance a pregnant woman meets the eligibility requirements of this section.

(5) An infant or child who attains the maximum age ((as)), described ((m)) under subsection (1)(a) or (b) of this section, shall continue to be eligible until the later of:

(a) The end of the month in which the infant or child attains the maximum age((:)); or

(b) The end of the month in which the infant or child receives inpatient services if:

(i) The infant or child is receiving inpatient services on the last day of the month in which the child attains the maximum age((:)); and

(ii) The stay for inpatient services continues into the following ((month(s):)) month or months; and

(iii) ((Who, but for attaining such age, would be)) The infant or child is eligible for medical assistance under this section except for age.

WSR 89-08-045
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 31, 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 citizenship and alienage, amending WAC 388-83-015;

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 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 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

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Dated: March 24, 1989

By: Leslie F. James, Director  
Administrative Services

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-83-015.

Purpose: To clarify current Medicaid policy on identifying aliens eligible for Medicaid. Also adds the North American Indian born in Canada as an individual eligible for Medicaid.

Reason: A change in the law.

Statutory Authority: RCW 74.08.090.

Summary: Aliens, meeting certain criteria, granted lawful temporary or permanent residence according to certain provisions of Immigration and Nationality Act and Immigration Reform and Control Act are eligible for Medicaid. North American Indians born in Canada meeting certain criteria are eligible for Medicaid.

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, Immigration and Nationality Act.

No economic impact statement is required under the Regulatory Fairness Act.

#### AMENDATORY SECTION (Amending Order 2472, filed 2/19/87)

WAC 388-83-015 CITIZENSHIP AND ALIENAGE. (1) (~~Any applicant must be a~~) The department shall provide Medicaid to an otherwise eligible individual who is:

- (a) A citizen of the United States; or
- (b) A North American Indian born in Canada;
- (i) Claiming fifty percent Indian blood; or

(ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing (~~in the United States~~) under color of law (~~including~~) (PRUCOL) in the United States or an alien who is lawfully present in the United States according to ((specified)) provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (~~(Sec WAC 388-26-120-3))~~) (INA); or

(d) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245A, 210, and 210A of INA and section 202 of the Immigration Reform and Control Act (IRCA) if the alien is:

- (i) Aged, blind, or disabled;
- (ii) Seventeen years of age or under;
- (iii) Pregnant; or
- (iv) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and 2)(A) of P.L. 96-422.

(2) For five years from the date Immigration and Naturalization Service (INS) grants lawful temporary or permanent resident status to an alien, under sections 245A, 210, and 210A of INA, the alien, other than those described under subsection (1)(d) of this section, shall be eligible for Medicaid services only as follows:

(a) Medical care and services necessary for treatment of the alien's emergency medical condition. For purposes of this subsection, the term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the alien's health in serious jeopardy;
  - (ii) Serious impairment to bodily functions; or
  - (iii) Serious dysfunction of any bodily organ or part.
- (b) When such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.

(3) The department shall consider a seasonal agricultural worker (SAW), granted temporary or permanent residence under sections 210(f) of INA and 302 of IRCA, eligible for Medicaid on the same basis as aliens under subsections (1)(d) or (2) of this section.

(4) An alien who is not lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law, or described in subsection (2) or (3) of this section, shall be eligible for Medicaid only if:

- (a) Medical care and services are necessary for treatment of an emergency medical condition of the alien; and
- (b) Such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC;
- (c) For purposes of this subsection, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
  - (i) Placing the ((patient's)) alien's health in serious jeopardy;
  - (ii) Serious impairment to bodily functions; or
  - (iii) Serious dysfunction of any bodily organ or part.

WSR 89-08-046

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed March 31, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning nursing home accounting and reimbursement system, amending chapter 388-96 WAC;

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 March [May] 10, 1989.

The authority under which these rules are proposed is RCW 74.09.120 and 74.46.800.

The specific statute these rules are intended to implement is RCW 74.09.120 and 74.46.800.

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: March 28, 1989  
By: Leslie F. James, Director  
Administrative Services

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 388-96 WAC, Nursing home accounting and reimbursement system.

Background: The proposed rule changes clarify audit and preliminary settlement procedures and substitute an index more representative of nursing cost increases to nursing providers than the medical care component of the consumer price index (CPI), as authorized in RCW 74.46.481(5). The index will be used to limit reimbursement of nursing and related services cost increases beginning with July 1, 1990, Medicaid provider rates. The rule changes are necessary generally to clarify and comply with the procedures and provisions set forth in chapter 74.46 RCW Nursing Home Auditing and Cost Reimbursement Act of 1980.

Statutory Authority: RCW 74.09.120, 74.46.481 and [74.46.]800.

Summary of the Rule Changes and Reasons for Adoption: WAC 388-96-210 Scope of field audits, the change clarifies that various lid adjustments and other desk review adjustments made to a Medicaid contractor's reported nursing home costs for the purpose of establishing the contractor's following July 1 Medicaid reimbursement rate will be also applied, as appropriate in the auditor's discretion, as part of the field audit of such costs. Pursuant to RCW 74.46.190(2) "All documented costs which are ordinary, necessary, related to care of medical care recipients, and not expressly unallowable, are to be allowable." Pursuant to RCW 74.46.410 (2)(g) "Unallowable costs include, but are not limited to . . . costs in excess of limits or in violation of principles

set forth in this chapter." These rules are expressed in implementing regulations as well. Because the various rate-setting lid and other desk review adjustments made to reported costs are authorized by limits and principles of reimbursement contained in chapter 74.46 RCW, costs in excess of such lids and in violation of such principles are not allowable costs under the Washington statutory system of Medicaid reimbursement. They are therefore ineligible to be included in rate setting or included in a contractor's audited allowable costs. The change clarifies that costs in excess of limits and reimbursement principles will not be included in audited allowable costs. In the past, with minor exceptions, the department has not reduced costs being audited to reflect lids and other desk review adjustments applied to those same costs for establishing the following July 1 Medicaid rate. This has resulted in annual audited cost figures over the years which, although frequently labeled "audited allowable costs," are in fact in excess of contractors' true audited allowable costs. Because the department settles each audited report year at the lower of audited cost or the average Medicaid rate in effect for the same year (as established by costs from prior report periods), the disparity between rates paid and audited costs incurred has for many contractors been exaggerated and has not been truly reflective of the difference, if any, between rates paid and audited allowable costs incurred during the year; WAC 388-96-221 Preliminary settlement, beginning with 1988 preliminary settlements, the change clarifies that a preliminary settlement report will reduce or increase a contractor's reported costs by desk review adjustments when no field audit is scheduled. If selected for field audit, a facility's preliminary settlement will be issued on reported costs. If the department is prevented or hindered from completing a full field audit, a contractor's preliminary settlement may be reopened to substitute desk-reviewed costs; WAC 388-96-722 Nursing services cost area rate, beginning with July 1, 1990, rate setting, the change substitutes the "Average hourly earnings—Nursing, personal care facilities" component of the health care financing administration (HCFA) market basket index of nursing home costs for the "medical care component" of the consumer price index (CPI) for the purpose of measuring and limiting the allowability of nursing services cost increases. Pursuant to RCW 74.46.481 (5), (6) and (7) the department must "select an index of cost increase relevant to the nursing and related services cost area" in order to limit increases in such costs for the purpose of determining a contractor's allowable nursing services costs, "between the facility's most recent cost reporting period and the next prior cost reporting period." RCW 74.46.481(5) provides in part: "In the absence of a more representative index, the department shall use the medical care component index as maintained by the United States Bureau of Labor Statistics." The department has utilized the medical care component of the CPI (referenced in RCW 74.46.481(5)) since July 1, 1983, rate setting when this statute and most of the other sections of chapter 74.46 RCW become effective under RCW 74.46.901. The department has determined that the average hourly earnings component index of the HCFA

market basket index for nursing homes is more representative of and relevant to the nursing and related services cost increases the department is mandated to monitor than is the medical care component of the CPI as maintained by the United States Bureau of Labor Statistics. The medical care component of the CPI measures increases in prices of medical services to consumers but what the department is required to monitor and limit is increases in the costs of nursing and related services to Medicaid providers of long-term nursing care. The "Average hourly earnings—Nursing, personal care facilities" component index of the HCFA market basket measures the costs to personal care facilities, including skilled nursing and intermediate care facilities, of nonsupervisory personnel such as registered nurses, licensed practical nurses and certified nurses aids. Substitution of the component HCFA index for the component CPI index is mandated by RCW 74.46.481(5) because it is, on its face, more representative of the nature of cost incurred by Medicaid providers in providing nursing and related care services. Implementation is delayed until July 1, 1990, rate setting to allow providers an opportunity to monitor 1989 cost increases over 1988 with an eye to the index the department will employ in comparing these two years, as well as subsequent report years for subsequent rate setting. The HCFA market basket is developed for HCFA by DRI/McGraw Hill of Washington, D.C.

These rule changes are proposed by the Department of Social and Health Services.

Person Responsible for Drafting, Implementing and Enforcing These Changes: Denise Gaither, Manager of Residential Rates, Aging and Adult Services Administration, Department of Social and Health Services, Mailstop HB-11, Olympia, Washington 98504, (206) 753-5817, 234-5817 scan. Written or oral comments may be addressed to Ms. Gaither or questions or comments may be addressed to Robert Gray, same address, phone (206) 753-5236, 234-5236 scan.

These rules are necessary to comply with the provisions of chapter 74.46 RCW and are not necessary as a result of federal or state court decisions. Emergency adoption of the changes is not sought by the department.

The above described amendments are not expected to have any significant financial impact due to costs of compliance to nursing homes whether classified as small businesses or not and, therefore, a small business impact statement is not required. The proposed changes will not cause nursing homes to incur increased equipment, supplies, labor, administrative or similar costs.

#### AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-210 SCOPE OF FIELD AUDITS. (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group, and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

- (a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to patient care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) In determining allowable costs for each contractor for each cost report year selected for field audit, auditors shall consider and include in their adjustments, as appropriate, all lid adjustments and other desk review adjustments previously made to the reported costs being audited, that is, made to such costs for the purpose of establishing a contractor's July 1 Medicaid rate following the cost report period under audit.

(4) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

#### AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-221 PRELIMINARY SETTLEMENT. (1) In the proposed preliminary settlement submitted (~~pursuant to~~) under WAC 388-96-220(2), a contractor shall compare the prospective rates at which the contractor was paid during the report period, weighted by the number of patient days reported for the period each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis.

(2) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall:

(a) Review proposed preliminary settlement for accuracy, and

(b) Either accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(3) A contractor shall have thirty days after receipt of a preliminary settlement report to contest such report (~~pursuant to~~) under WAC 388-96-901 and 388-96-904. Upon expiration of the thirty-day period, the department shall not review or adjust a preliminary settlement report.

(4) If no audit is scheduled by the department or if a scheduled audit is not performed within two years of the scheduled date, the department shall perform the preliminary settlement review described in this section with the following exceptions:

(a) For cost centers, the department shall use desk-reviewed costs as the contractor allowable costs for the reporting period;

(b) The department shall calculate the variable portion of return on investment as calculated in the prospective rate;

(c) The department shall base the financing allowance portion of return on investment on audited costs in compliance with provisions contained in this chapter. If audited costs are not available, the department shall use the financing allowance used for rate setting. If an audited financing allowance is later determined, the department shall revise the final settlement to reflect audited financing allowance if payment is changed by \$1,000 or more; and

(d) When a complete audit was not performed and audited information is needed for purposes of calculating return on investment, the department may do a partial audit of current or prior year cost report.

(5) Beginning with preliminary settlements for report year 1988, if the department intends to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon reported costs. If the department does not intend to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon desk-reviewed costs utilizing the procedure under subsection (4) of this section.

(6) If the facility prevents, hinders, or otherwise delays completion of a full field audit, that facility's preliminary settlement issued on reported costs may be reopened to substitute desk-reviewed costs.

#### AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-722 NURSING SERVICES COST AREA RATE. (1) The department shall pay the nursing services cost area

reimbursement rate for the necessary and ordinary costs of providing routine nursing and related care to recipients. The cost of one-to-one care shall include care provided by qualified therapists and their employees only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) The department shall subject nursing service costs to two reasonableness tests:

(a) A test for nursing staff hours; and

(b) A test for cost increases between the current and preceding report period.

(3) The test for nursing staff hours referenced ~~((im))~~ under subsection (2)(a) of this section shall use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' assistants, including:

(a) Purchased and allocated nursing and assistant staff time, and

(b) The average Battelle patient debility score for the corresponding facilities as computed by the department. The department shall take data for the regression from:

(i) Correctly completed cost reports, and

(ii) Patient assessments completed by the department for the corresponding calendar report year and available at the time the regression equation is computed. Effective January 1, 1988, the department shall not include the hours associated with off-site or class room training of nursing assistants and the supervision of such training for nursing assistants in the test for nursing staff hours. The department shall calculate and set for each facility a limit on nursing and nursing assistant staffing hours at predicted staffing hours plus 1.75 standard errors, utilizing the regression equation calculated by the department. The department shall reduce costs for facilities with reported hours exceeding the limit by an amount equivalent to:

(A) The hours exceeding the limit;

(B) Times the average wage rate for nurses and assistants indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. The department shall provide contractors' reporting hours exceeding the limit, the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

(4) For all future rate setting, effective with July 1, 1990 rate setting, the test for cost increases referenced ~~((im))~~ under subsection (2)(b) of this section shall compare:

(a) The percentage change in allowable nursing services cost for the facility between the most recent cost report period and the next prior cost report period;

(b) Against the percentage change in the ~~((medical))~~ "average hourly earnings—nursing, personal care facilities" component of the ~~((consumer price))~~ health care financing administration (HCFA) market basket cost index for ~~((all urban consumers))~~ nursing homes between ~~((July))~~ the second quarter of the most recent cost report period and ~~((July))~~ the second quarter of the next prior cost report period. The department shall limit facilities reporting increases greater than the ~~((medical care))~~ selected component of the ~~((consumer price index))~~ HCFA market basket to a rate determined by their adjusted patient care costs for the period immediately preceding the most recent cost report period, inflated by the ~~((medical care))~~ selected component of the ~~((consumer price index))~~ HCFA market basket.

(5) For July 1, 1989 rate setting, the test for cost increases referenced under subsection (2)(b) of this section shall continue to employ the medical care component of the consumer price index (CPI) as provided for July 1, 1988 rate setting.

**WSR 89-08-047**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed March 31, 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 Allocation of excess income—Spendedown, amending WAC 388-99-030;

that the agency will at 10:00 a.m., Tuesday, May 9, 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 May 10, 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 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: March 28, 1989  
 By: Leslie F. James, Director  
 Administrative Services

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-99-030.

Purpose: To amend WAC to say that the incurred medical expense must be "subject to payment" by a public program; and to allow the hospital deductible for spenddown for hospitalized Medicare covered applicants.

Reason: Present WAC states the incurred medical expense may be paid by a public program prior to application for medical assistance; and the Medicare Catastrophic Act changed the methodology for establishing deductibles for hospitalized Medicare patients.

Statutory Authority: RCW 74.08.090.

Summary: An incurred medical expense allowable for spenddown must be a current liability of the applicant or subject to payment by a public program. The department shall allow towards spenddown, the hospital deductible for Medicare covered hospitalized applicants.

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 2735, filed 12/2/88)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

(a) The medical expense ~~((must))~~ shall be a current liability of the applicant or financially responsible relative in the same household ~~((or paid by a public program of the state, county, or city other than Medicaid))~~;

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by third-party liability.

(i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall ~~((take the following action:~~

~~(A)))~~ allow the Medicare deductible toward the spenddown ~~((if there has not been a previous hospital stay within sixty days, and the client still owes the bill, and~~

~~(B) Not allow the hospital deductible, and follow the procedure in subsection (1)(c)(i) of this section, if there has been a previous hospital stay within sixty days)).~~

(d) The department shall consider toward spenddown a medical expense incurred ~~((prior to))~~ by the applicant during the base period and paid for or subject to payment by a public program of the state, county, or city other than Medicaid; and

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the applicant is eligible.

(3) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely spenddown. The department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, co-insurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which ~~((have been))~~ the applicant or a public program of the state, county, or city other than Medicaid has paid ~~((by the applicant or by a public program of the state, county, or city other than Medicaid))~~; and

(d) Expenses for necessary medical and remedial care covered, but not yet paid for, by the limited casualty program ~~((which have not been paid))~~.

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility has been approved, the department shall not consider expenses which were not listed or which were omitted. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:

(a) The expenses incurred prior to the certification date ~~((meets))~~ meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and prior to receiving medical coupons, ~~((meets))~~ meet the conditions in subsections (1)(b) through (e) of this section.

(5) The applicant is liable for any expenses incurred prior to the ~~((spenddown satisfaction))~~ date the applicant is eligible.

## WSR 89-08-048

## EMERGENCY RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

## (Public Assistance)

[Order 2779—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to citizenship and alienage, amending WAC 388-83-015.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this amendment is necessary to add those qualifying aliens granted lawful temporary or permanent residence according to provisions of the Immigration and Nationality Act. Also adds the North American Indian born in Canada as an individual eligible for Medicaid according to federal law. This amendment is to be effective on April 1, 1989.

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 24, 1989.

By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 2472, filed 2/19/87)

WAC 388-83-015 CITIZENSHIP AND ALIENAGE. (1) ~~((An applicant must be a))~~ The department shall provide Medicaid to an otherwise eligible individual who is:

(a) A citizen of the United States; or

(b) A North American Indian born in Canada:

(i) Claiming fifty percent Indian blood; or

(ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing ((in the United States)) under color of law ((including)) (PRUCOL) in the United States or an alien who is lawfully present in the United States according to ((specified)) provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act((=Sec WAC 388-26-120)) (INA); or

(d) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245A, 210, and 210A of INA and section 202 of the

Immigration Reform and Control Act (IRCA) if the alien is:

- (i) Aged, blind, or disabled;
- (ii) Seventeen years of age or under;
- (iii) Pregnant, or
- (iv) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(2) For five years from the date Immigration and Naturalization Service (INS) grants lawful temporary or permanent resident status to an alien, under sections 245A, 210, and 210A of INA, the alien, other than those described under subsection (1)(d) of this section, shall be eligible for Medicaid services only as follows:

(a) Medical care and services necessary for treatment of the alien's emergency medical condition. For purposes of this subsection, the term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the alien's health in serious jeopardy;
  - (ii) Serious impairment to bodily functions; or
  - (iii) Serious dysfunction of any bodily organ or part.
- (b) When such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.

(3) The department shall consider a seasonal agricultural worker (SAW), granted temporary or permanent residence under sections 210(f) of INA and 302 of IRCA, eligible for Medicaid on the same basis as aliens under subsections (1)(d) or (2) of this section.

(4) An alien who is not lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law, or described in subsection (2) or (3) of this section, shall be eligible for Medicaid only if:

(a) Medical care and services are necessary for treatment of an emergency medical condition of the alien; and

(b) Such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC;

(c) For purposes of this subsection, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the ((patient's)) alien's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

**WSR 89-08-049**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2780—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Allocation of excess income—Spendedown, amending WAC 388-99-030.

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 amendment is necessary to require that incurred medical expense must be subject to payment by a public program and to allow the hospital deductible for spenddown for hospitalized Medicare covered applicants according to the Medicare Catastrophic Coverage Act of 1988 to be effective April 1, 1989.

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 28, 1989.

By Leslie F. James, Director  
 Administrative Services

AMENDATORY SECTION (Amending Order 2735, filed 12/2/88)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

(a) The medical expense ((must)) shall be a current liability of the applicant or financially responsible relative in the same household ((or paid by a public program of the state, county, or city other than Medicaid));

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by third-party liability.

(i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.



(ii) When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall ~~((take the following action:~~

~~(A)) allow the Medicare deductible toward the spenddown((, if there has not been a previous hospital stay within sixty days, and the client still owes the bill, and~~

~~(B) Not allow the hospital deductible, and follow the procedure in subsection (1)(c)(i) of this section, if there has been a previous hospital stay within sixty days)).~~

(d) The department shall consider toward spenddown a medical expense incurred ~~((prior to))~~ by the applicant during the base period and paid for or subject to payment by a public program of the state, county, or city other than Medicaid; and

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the applicant is eligible.

(3) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely spenddown. The department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which ~~((have been))~~ the applicant or a public program of the state, county, or city other than Medicaid has paid ~~((by the applicant or by a public program of the state, county, or city other than Medicaid));~~ and

(d) Expenses for necessary medical and remedial care covered, but not yet paid for, by the limited casualty program ~~((which have not been paid)).~~

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility has been approved, the department shall not consider expenses which were not listed or which were omitted. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:

(a) The expenses incurred prior to the certification date ~~((meets))~~ meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and prior to receiving medical coupons, ~~((meets))~~ meet the conditions in subsections (1)(b) through (e) of this section.

(5) The applicant is liable for any expenses incurred prior to the ~~((spenddown-satisfaction))~~ date the applicant is eligible.

WSR 89-08-050  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)

[Order 2781—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to standards for child care providers, amending WAC 388-78-210.

This action is taken pursuant to Notice No. WSR 89-05-062 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 under the general rule-making authority of the Department of Social and Health Services as authorized in chapter 74.21 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 28, 1989.

By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 2628, filed 6/1/88)

WAC 388-78-210 STANDARDS FOR CHILD CARE PROVIDERS. (1) The department shall pay only child care providers who are in compliance with statutory licensing requirements.

(2) The department shall pay a school-operated child care program that demonstrates compliance with state child day care minimum licensing standards.

(3) The department shall pay an in-home child care provider only after(:

~~(a))~~ the department has provided the enrollee with information about the criteria for selecting an in-home child care provider. The criteria are that the provider be:

~~((i))~~ (a) Eighteen years of age or older;

~~((ii))~~ (b) Free of communicable disease;

~~((iii))~~ (c) Of sufficient physical, emotional, and mental health to meet the needs of the children in care;

~~((iv))~~ (d) Able to work with children without using physical punishment or psychological abuse; and

~~((v))~~ (e) Prompt and regular ~~((in-job))~~ in job attendance.

~~((b) A release is obtained for the department to initiate a criminal history/arrest record check.))~~

**WSR 89-08-051**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2782—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-49-450 Income—Earned.  
 Amd WAC 388-49-470 Income—Exclusions.

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 these amendments are necessary to repeal earned income credit (EIC) received regularly as earned income. EIC will be treated as an income exclusion according to the Hunger Prevention Act of 1988 and will be effective April 1, 1989.

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

This rule is promulgated pursuant to RCW 74.04.510 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 30, 1989.

By Leslie F. James, Director  
 Administrative Services

AMENDATORY SECTION (Amending Order 2762, filed 2/13/89)

WAC 388-49-450 INCOME—EARNED. (1) The department shall consider the following as earned income:

- (a) Wages and salaries;
- (b) Gross income from self-employment, including total gain from the sale of any capital goods or equipment related to the business, and excluding the cost of doing business. Self-employment income includes:
  - (i) Income from rental property if a household member is managing the property an average of twenty hours or more a week; and
  - (ii) Payments from a roomer; and
  - (iii) Payments from a boarder except for child foster care payments.
- (c) Training allowances from vocational and rehabilitative programs:
  - (i) Recognized by federal, state, or local governments; and
  - (ii) Are not a reimbursement.
- (d) Payments under Title I of the Domestic Volunteer Service Act;
- (e) Advance on wages;

- (f) Earnings by persons nineteen years of age and older from on-the-job training programs under JTPA;
- (g) State and federal work study funds;
- (h) ~~(EIC received regularly;~~
- ~~(f))~~ Money from the sale of blood or blood plasma; and

~~((f))~~ (i) Military basic allowance for quarters and basic allowance for subsistence in lieu of provided housing and/or food.

(2) The department shall verify gross nonexempt earned income except for expedited service households:

- (a) Prior to initial certification;
- (b) At reapplication if amount has changed more than twenty-five dollars; and
- (c) On a monthly basis for households subject to monthly reporting.

AMENDATORY SECTION (Amending Order 2716, filed 10/19/88)

WAC 388-49-470 INCOME—EXCLUSIONS.

(1) The department shall exclude the following income:

- (a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source;
- (b) Any income specifically excluded by any other federal statute from consideration as income in the food stamp program;
- (c) The earned income of children who are:
  - (i) Members of the household,
  - (ii) Under eighteen years of age, and
  - (iii) Attending school at least half time.
- (d) Infrequent or irregular income received during a three-month period that:
  - (i) Cannot be reasonably anticipated as available, and
  - (ii) Shall not exceed thirty dollars for all household members.
- (e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;
- (f) Nonrecurring lump sum payments;
- (g) The cost of producing self-employment income;
- (h) Financial aid received under Title IV of the Higher Education Act designated by the school for:
  - (i) Tuition,
  - (ii) Fees (including equipment and material),
  - (iii) Books,
  - (iv) Supplies,
  - (v) Transportation, and
  - (vi) Miscellaneous personal expenses as determined by the institution.
- (i) Other federal financial aid designated by the school for:
  - (i) Tuition, and
  - (ii) Mandatory fees.
- (j) Nonfederal financial aid designated by the school for:
  - (i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and
  - (ii) Other earmarked educational expenses such as transportation, supplies, textbooks, and child care.

(k) Reimbursements for past or future expenses to the extent the reimbursements do not:

- (i) Exceed the actual expense, and
- (ii) Represent a gain or benefit to the household.
- (l) Any gain or benefit not in money;
- (m) Vendor payments as defined in WAC 388-49-020;
- (n) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;
- (o) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;
- (p) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

Number in Grant Assistance Unit	Energy Exclusion
1	\$30
2	39
3	46
4	56
5	63
6	72
7	84
8 or more	92

(q) Money specified by court order or other legally binding agreement to go directly to a third-party beneficiary rather than to the household;

(r) Support payments not required by a court order or other legally binding agreement paid directly to a third party rather than to the household;

(s) Payments from the individual and family grant program;

- (t) Public assistance payments when they are:
  - (i) Over and above the regular warrant amount; and
  - (ii) Not normally a part of the regular warrant; and
  - (iii) Paid directly to a third party on behalf of the household.

(u) Earnings from on-the-job training programs under the Job Training Partnership Act by household members:

- (i) Under 19 years of age; and
- (ii) Under parental control.
- (v) Cash donations based upon need:
  - (i) Received directly by the household;
  - (ii) From one or more private, nonprofit, charitable organizations; and
  - (iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

(w) Earned income credit.

(2) When a child's earnings or amount of work performed cannot be differentiated from the earnings or work performed by other household members, the department shall:

- (a) Prorate the earnings equally among the working members, and
- (b) Exclude the child's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the excluded amount shall be:

- (a) Any identifiable portion intended and used for the care and maintenance of the person out of the household, or
- (b) If the portions are not readily identified as:
  - (i) An even pro rata share; or
  - (ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

**WSR 89-08-052**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2783—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to durable medical equipment, prosthetic devices and disposable/nonreusable medical supplies, amending WAC 388-86-100.

This action is taken pursuant to Notice No. WSR 89-02-037 filed with the code reviser on December 30, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED March 31, 1989.

By Leslie F. James, Director  
 Administrative Services

**AMENDATORY SECTION** (Amending Order 2329, filed 1/15/86)

WAC 388-86-100 DURABLE MEDICAL EQUIPMENT(=), PROSTHETIC DEVICES, AND DISPOSABLE/NONREUSEABLE MEDICAL SUPPLIES. (1) The division of medical assistance (~~will authorize the~~) shall purchase and/or (~~rental of~~) rent medically necessary medical equipment, prosthetic devices, and other disposable/nonreusable medical supplies when:

- (a) The division is the payor of last resort; and (~~when~~)
- (b) The item requested(~~:~~):
  - (a) Will reduce the length of hospitalization;
  - (b) Will aid the rehabilitation of an employable person;
  - (c) Is not included with other reimbursement methodologies such as, but not limited to, diagnosis related

group (DRG) for hospital inpatients, or a nursing homes per diem reimbursement; and

(d) Will enable a recipient to return to or continue to live in his/her own home;

(e) Will be used exclusively by a nursing home recipient for whom it is requested, for a permanent disability)) is not included with other reimbursement methodologies, such as, but not limited to, diagnosis related group (DRG) for hospital inpatients, or a nursing home's per diem reimbursement.

(2) The division of medical assistance shall authorize payment for a requested item only when the item is medically necessary as defined under WAC 388-80-005(45) and is covered by the medical assistance program.

(3) The division of medical assistance shall purchase and/or rent a wheelchair for a permanently disabled nursing home recipient when the chair is for the exclusive full-time use of the recipient and is not included in the nursing home's per diem reimbursement.

(4) Medical equipment and supplies purchased or reissued by the division of medical assistance become the property of the recipient for whom they are purchased/reissued.

~~((3))~~ (5) The division of medical assistance ~~((with))~~ shall normally authorize the purchase and/or repair of only one wheelchair, manual or power-drive, per recipient. However, another wheelchair ~~((with))~~ shall be provided and/or repaired when medically necessary.

~~((4))~~ (6) Durable medical equipment, prosthetic devices, and disposable/nonreusable supplies that require approval by the division of medical assistance prior to delivery of service include:

(a) Prosthetic limbs; ~~((orthotics for the upper and lower extremity; impression casting;))~~

(b) Orthopedic shoes ~~((and braces for orthopedic shoes;))~~; ~~((osteogenesis))~~

(c) Osteogenic stimulator~~((=))~~<sub>2</sub> noninvasive; ~~((certain))~~

(d) Communication devices;

(e) Transcutaneous nerve stimulators; ~~((walk aids with a seat wheels and brakes, drop-arm commodes;))~~

(f) Wheeled shower chairs;

(g) Blood pressure kits;

(h) Blood glucose monitors;

(i) Air and gel cushions; ~~((fracture frames;))~~

(j) Fluidized air flotation system;

(k) Decubitus care mattress, including flotation or gel mattress;

(l) Complete patient lift, except for sling or wall mount;

(m) Wheelchairs~~((; wheelchair repair parts and));~~

(i) Accessories;

(ii) Fitting fees; and

(iii) Freight charges.

(n) Hospital bed~~((s))~~ and replacement mattress; ~~((diapers))~~

(o) Replacement parts, repairs, and labor charges;

(p) Bath accessories, decubitus care products (nonformulary), and patient equipment not listed in the division of medical assistance "durable medical equipment and supplies" billing instructions; and

(q) All rentals.

(7) The division of medical assistance shall not authorize the purchase of vehicle driving controls, a vehicle wheelchair lift conversion, or purchase or repair of a vehicle wheelchair lift, unless:

(a) Medical transportation provided under WAC 388-86-085 cannot meet the recipient's need for transportation to and from medically necessary covered services at a lower cost to the department; and

(b) Prior approval is obtained.

### WSR 89-08-053

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

#### (Public Assistance)

[Order 2784—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-82-140 Qualified Medicare beneficiaries eligible for Medicare cost sharing.

Amd WAC 388-83-032 Needy infants, children and pregnant women.

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 these rules are necessary to update the optional categorically needy and qualified Medicare beneficiary programs' income requirements to the 1989 federal poverty income level to be effective April 1, 1989.

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 31, 1989.

By Leslie F. James, Director  
Administrative Services

#### AMENDATORY SECTION (Amending Order 2758, filed 2/13/89)

WAC 388-82-140 QUALIFIED MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICARE COST SHARING. The department shall provide Medicare cost sharing under WAC 388-81-060(2) for an individual:

(1) Meeting the general nonfinancial requirements under chapter 388-83 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act; and

(3) Having resources not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC; and

(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding eighty-five percent of the poverty income guidelines as published and updated by the secretary of health and human services. Eighty-five percent of the ((+1988)) 1989 poverty income guidelines is:

	Family Size	Monthly
(a)	One	\$ ((409)) 424
(b)	Two	((548)) 568

(c) For family units with more than two members, add \$((+139.00)) 145.00 to the monthly income for each additional member.

**AMENDATORY SECTION** (Amending Order 2730, filed 11/18/88)

WAC 388-83-032 **NEEDY INFANTS, CHILDREN AND PREGNANT WOMEN.** (1) The department shall find the following groups eligible for Medicaid as categorically needy, if they meet the income and resource requirements of this section:

(a) Effective July 1, 1987:

(i) Women during pregnancy and during the sixty-day period beginning on the last day of pregnancy((:)); and

(ii) Infants under one year of age.

(b) Effective October 1, 1988, children ((under three)) two years of age and under.

(2) Income eligibility:

(a) Total family income shall not exceed ninety percent of the poverty income guidelines as published and updated by the secretary of health and human services. Ninety percent of the ((+1988)) 1989 poverty income guidelines is:

	Family Size	Monthly
(i)	One	\$ ((433.00)) 449.00
(ii)	Two	\$ ((580.00)) 602.00
(iii)	Three	\$ ((727.00)) 755.00
(iv)	Four	\$ ((874.00)) 908.00
(v)	Five	\$ ((1,021.00)) 1,061.00
(vi)	Six	\$ ((1,168.00)) 1,214.00
(vii)	Seven	\$ ((1,315.00)) 1,367.00
(viii)	Eight	\$ ((1,462.00)) 1,520.00

(ix) For family units with ((more than eight)) nine members or more, add \$((+147.00)) 153.00 to the monthly income for each additional member.

(b) The department shall ((determine family income)):

(i) Determine family income according to AFDC methodology except for the exclusions ((m)) under WAC 388-83-130 (5) and (6)((:)); and

(ii) ((Strat)) Not use the costs incurred for medical care or for any other type of remedial care to reduce the family income.

(3) Resource eligibility:

(a) The total value of the family's countable resources shall not exceed five thousand dollars((:)); and

(b) ((Countable resources are limited to)) The Department shall count as resources only cash, savings accounts, checking accounts, and certificates of deposit((:

c) The department shall not consider other resources in determining the eligibility of groups included in subsection (1) of this section)).

(4) During pregnancy and during the sixty-day period beginning on the last day of pregnancy, changes in a pregnant woman's income or living situations shall not affect eligibility for medical assistance((, during pregnancy or during the sixty-day period beginning on the last day of pregnancy)):

(a) Once a pregnant woman is determined eligible under this section((:)); or

(b) If at any time while eligible for and receiving medical assistance a pregnant woman meets the eligibility requirements of this section.

(5) An infant or child who attains the maximum age ((as)), described ((m)) under subsection (1)(a) or (b) of this section, shall continue to be eligible until the later of:

(a) The end of the month in which the infant or child attains the maximum age((:)); or

(b) The end of the month in which the infant or child receives inpatient services if:

(i) The infant or child is receiving inpatient services on the last day of the month in which the child attains the maximum age((:)); and

(ii) The stay for inpatient services continues into the following ((month(s),)) month or months; and

(iii) ((Who, but for attaining such age, would be)) The infant or child is eligible for medical assistance under this section except for age.

**WSR 89-08-054**

**ADOPTED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

**(Health)**

[Order 2785—Filed March 31, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to nursing homes, amending chapter 248-14 WAC.

This action is taken pursuant to Notice No. WSR 89-04-054 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 18.51.070 and 74.42.620.

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 31, 1989.

By Leslie F. James, Director  
Administrative Services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Where the licensee is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Is a dietitian; or

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

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

~~((+5))~~ (16) "Dietitian" ~~((=))~~ means a person who is eligible for registration by the commission on dietetic registration of the American Dietetic Association based on the 1982 criteria for registration. A person not meeting this definition but employed in that capacity by a nursing home or homes on or before the effective date of this regulation will be deemed to meet the requirement of WAC 248-14-230(5). This grandfather clause is only effective so long as the:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Dialysis.

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

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

(e) Self-dialysis training program for patients.

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

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

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

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

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

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

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

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

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

(a) New buildings to be used as a nursing home;

(b) Additions to buildings used as a nursing home;

(c) Conversions of existing buildings including previously licensed nursing homes; and

(d) Alterations.

~~((+25))~~ (27) "Nursing care" ~~((=))~~ means services designed to maintain or promote achievement of optimal

independent function and health status planned, supervised, and evaluated by a registered nurse in the context of an overall individual plan of care.

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

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

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

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

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

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

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

(d) "Residents requiring intermediate nursing care" ~~((=))~~ means residents whose physiological and psychological functioning is stable, but require individually planned treatment and services under the daily direction of a registered nurse or a licensed nurse with registered nurse consultation as provided by exemption and the supervision of a licensed physician. The program is directed toward maintenance of maximum independence and

return to the community whenever possible. The program includes an established treatment regimen involving more than supervision, assistance with personal care, and protection.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

**WAC 248-14-090 CHANGE OF OWNERSHIP.**

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

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

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

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

(c) Date of proposed transfer.

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

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

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

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

**WAC 248-14-235 ADMINISTRATOR.** (1)

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

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

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

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

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

(2) The administrator shall ensure:

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

(i) Major operating programs,

(ii) Staff divisions,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~((b))~~ (ii) Staff shall administer a second skin test, within one to three weeks after the first test, to residents thirty-five years of age or older ~~((with))~~ who have reactions of less than ten millimeters induration within forty-eight to seventy-two hours after administration of the antigen ~~((shall have a second skin test within one to three weeks after the first test))~~, unless there is documentation of a skin test within the preceding six months.

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

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

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

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

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

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

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

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

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

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

(ii) The notification shall:

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

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

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

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

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

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

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

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

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

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

(A) Are not eligible for Medicaid benefits; or

(B) Will not apply for Medicaid benefits.

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

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

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

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

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

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

(p) Residents' families are allowed to meet with other residents' families in the nursing home, at times and places not interfering with the delivery of care, regarding the care and services provided by the nursing home.

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

WAC 248-14-247 RESIDENTS' RIGHTS. ~~((Written))~~ The nursing home shall protect and promote resident rights. The nursing home shall write and implement policies and procedures ~~((shall be implemented~~

regarding)) ensuring residents have the following rights ((for each resident)):

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

(2) Right to information about the nursing home.

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

(i) Orally and in writing;

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

(iii) Annually during the resident's stay.

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

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

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

(i) Orally and in writing;

(ii) Before or at the time of admission;

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

(iv) As changes occur.

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

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

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

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

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

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

(c) The nursing home shall ensure each resident has control over the ((opportunity and be encouraged to

participate in planning his or her)) decisions regarding the resident's total care and medical treatment;

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

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

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

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

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

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

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

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

(iv) The resident's request; or

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

((b) Internal transfers are conducted, except in emergencies, with prior notification of the resident and responsible person, and consistent with facility policies))

(c) When a transfer or discharge is necessary, the nursing home shall provide sufficient preparation and orientation to residents to ensure a safe and orderly transfer or discharge from the nursing home. The nursing home shall notify the resident and, as appropriate, the resident's legal guardian, next of kin, or other responsible party thirty days prior to a proposed transfer or discharge of the resident from the nursing home, except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The nursing home shall provide this information:

(i) Orally and in writing;

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

(iii) Annually during the resident's stay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Send and receive personal mail unopened.

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

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

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

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

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

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

(a) Change of ownership,

(b) Change in operating entity, or

(c) Change in management.

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

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

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

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

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

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

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

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

(2) Administration of pharmaceutical services.

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

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

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

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

(3) Security and storage of drugs.

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

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

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

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

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

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

(b) Administered to the right resident;

(c) Administered in the correct dosage; and

(d) Administered within correct times.

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

(a) Administration;

(b) Destruction;

(c) Release;

(d) Retention; and

(e) Return to the pharmacy.

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

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

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

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

(7) Drug orders.

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

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

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

(8) Drug administration.

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

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

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

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

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

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

(i) Verification of administration((-));

(ii) Reasons for ordered doses not taken((-), and

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

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

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

(i) Assessment of the resident's capabilities((-);

(ii) Instructions for administration((-);

(iii) Monitoring of progress and compliance with orders((-), and

(iv) Safe storage of drugs.

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

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

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

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

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

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

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

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

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

~~((4)) (5) The nursing home shall ensure the following services ((shall be)) and activities are provided by or under the direction and supervision of a kidney center in relation to the care and treatment of each dialysis patient:~~

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

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

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

~~((c)) (d) Physician's services. ((d)) There shall be a physician, whom the kidney center has designated or~~

approved for handling problems pertaining to ESRD, on call at all times dialysis is being administered.

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

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

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

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

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

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

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

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

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

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

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

(ii) ~~Regular inspection and maintenance servicing of equipment to keep it in safe and operable condition. Definite provision shall be made for regular inspection of~~

all electrical equipment in the immediate environment of a patient under-going dialysis as is required by WAC 248-14-300 (17)(d)(ii):

(iii) Prompt servicing of faulty or inoperable equipment.

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

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

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

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

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

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

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

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

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

(f) A written plan for the management and care of any patient receiving dialysis in the event of a fire, electrical power failure, explosion, earthquake or other disaster. The plan shall provide for immediate evacuation

of the dialysis patient when indicated and shall ensure provision for continuance of a patient's maintenance dialysis regimen should the nursing home's dialysis facilities be inoperable for a period of time).

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

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

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

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

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

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

(a) Medications,

(b) Treatment, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) Observation and evaluation of each dialysis patient's condition and response to dialysis shall be made by persons competent to recognize and evaluate significant signs and symptoms and take appropriate action. Observations shall be recorded in the patient's clinical record and signed by the person who made them. There

shall be timely reporting of significant observations to the kidney center or the responsible physician in accordance with the indicated need for further medical evaluation or medical intervention.

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

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

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

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

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

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

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

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

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

(a) Dialysis rooms

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

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

(iii) Each room in which patients are dialyzed shall open directly from a nursing unit corridor, shall be located to prevent through traffic and to minimize entrance of odors, noise and other nuisances and shall be



an outside room having a clear glass window area of not less than one-eighth of the usable floor area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Emergency electrical service shall be provided for dialysis room lighting. The emergency electrical service shall be automatic and not require any manual action to put it into operation after failure of the primary power distribution system. The emergency power system shall share the same common ground as the primary power distribution system. A separate grounding conductor, sized in accordance with the National Electrical Code, Article 250-95 shall be installed with wiring to all receptacles.

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

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

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

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

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

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

(iv) Use of any electrical equipment shall be discontinued until it can be properly checked and the defect corrected in the event of any of the following conditions: A person has received a shock in connection with its use; the equipment is overheating as evidenced by odor or

~~touch, there is damage to the power cord, plug, insulation or chassis housing, or a cable connector switch, control knob, pilot light or meter is malfunctioning.~~

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

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

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

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

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

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

~~(a) Storage space available for equipment and supplies;~~

~~(b) A telephone at the bedside of each dialysis patient; and~~

~~(c) A mechanical means of summoning additional staff to the dialysis area in the event of a dialysis emergency.~~

## WSR 89-08-055

### EMERGENCY RULES

### BASIC HEALTH PLAN

[Order 89-001—Filed March 31, 1989]

I, Thomas L. Kobler, director of the Washington Basic Health Plan, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the definition of "income" found in WAC 55-01-010(11).

I, Thomas L. Kobler, 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 definition of "income" affects eligibility and premium determinations for Washington Basic Health Plan applicants and members. As a result of the proposed action, additional individuals may be eligible for the plan based on income, and some members may find their premium obligation lessened. Adoption of the proposed definition is necessary to expedite enrollment of applicants in the plan and determination of premium obligations.

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

This rule is promulgated pursuant to RCW 70.47.050 which directs that the Washington Basic Health Plan has authority to implement the provisions of chapter 70.47 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 31, 1989.

By Thomas L. Kobler  
Administrator

### AMENDATORY SECTION (Amending Order 89-001, filed 2/16/89)

WAC 55-01-010 DEFINITIONS. The following definitions apply throughout these rules.

(1) "Administrator" means the Washington basic health plan administrator.

(2) "Certificate of coverage" means a written document issued by the plan to a subscriber which describes the covered services, premiums, grievance procedures and other rights and responsibilities of enrollees. The certificate of coverage issued to a subscriber shall pertain to the subscriber and family dependents.

(3) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a managed health care system or health care provider, or to the plan, when specifically instructed to do so by the plan, for covered services provided to the enrollee.

(4) "Covered services" means those services and benefits to which an enrollee is entitled, under the certificate of coverage issued by the plan to the enrollee (or to a subscriber on behalf of the enrollee), in exchange for payment of premium and applicable copayments.

(5) "Dependent child" means an individual's unmarried natural child, stepchild, or legally adopted child, who is either (a) younger than age nineteen, or (b) younger than age twenty-three and (i) is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an educational organization described in WAC 55-01-010 (5)(b)(i).

(6) "Effective date of enrollment" means the first date, as established by the plan, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.

(7) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the plan, and for whom applicable premium payments have been made.

(8) "Family" means an individual or an individual and the individual's spouse, if not legally separated, and the individual's dependent children. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

(9) "Family dependent" means a subscriber's legal spouse, if not legally separated, or the subscriber's dependent child, who meets all eligibility requirements, is enrolled in the plan, and for whom the applicable premium has been paid.

(10) "Grievance procedure" means the formal process for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction. "Grievance" means a problem or concern presented for resolution through a grievance procedure.

(11) "Gross family income" means the total income of all members of an enrollee's family, regardless of whether those family members enroll in the plan. (a) For purposes of this definition, for applications for enrollment which are received by the plan on or before March 31, 1989, "income" includes but is not limited to wages and salaries, net income from rentals or self-employment, tips, interest income, dividends, royalties, public or private pensions, and Social Security benefits. (b) For purposes of this definition, for applications for enrollment which are received by the plan on or after April 1, 1989 and for premium payments which are made for coverage on or after June 1, 1989, "income" means total cash receipts before taxes from all sources, with the exceptions noted below. (i) Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency

Assistance money payments, and non-Federally-funded General Assistance or General Relief money payments), and training stipends, alimony child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships and assistantships, if received as or convertible by the recipient into cash; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings. (ii) Income does not include the following types of money received: capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house or a car, tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation). Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such Federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance. (c) ((For purposes of this definition,)) "(i) Income" shall not include income ((of)) earned by dependent children, nor shall it include income of a family member who resides in another household when such income is not available to those family members seeking enrollment in the plan. (d) In the event that an item of income is received periodically, but less frequently than once per month, the latest amount received will be divided by the number of months in the period (i.e., between payments) in order to calculate an average amount per month. That monthly average will be combined with other monthly items of income to derive a monthly total, which will be used in the calculation of income as a percentage of federal poverty level. (For example, if an applicant receives quarterly interest payments in January, April, July, and October, and applies for coverage by the plan in September, the July payment will be divided by three to obtain a monthly income amount.)

(12) "Managed health care system" (or "MHCS") means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system.

(13) "Medicare" means programs established by Title XVIII of public law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(14) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their membership from one participating managed health care system to another. There shall be at least one open enrollment period of at least twenty

consecutive days, at least once annually, in each site served by the plan.

(15) "Participating," when referring to a managed health care system, means one that has entered into a contract with the plan to provide covered services to enrollees. When referring to a health care provider, "participating" means one who is employed by or has entered into a contract with a participating managed health care system to provide covered services to enrollees.

(16) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which a subscriber makes to the plan on behalf of the subscriber and family dependents in consideration for enrollment in the plan.

(17) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the State of Washington.

(18) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of enrollees in the plan and in that MHCS.

(19) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which enrollees shall be entitled to receive from participating managed health care systems.

(20) "Service area" means the geographic area served by a participating managed health care system as defined in its contract with the plan.

(21) "Site" means a geographic area designated by the plan in which one or more participating managed health care systems are offered to enrollees for selection.

(22) "Subscriber" means an enrollee, or the parent or legal guardian of an enrolled dependent child, who has been designated by the plan as the individual to whom the plan and the managed health care system will issue all notices, information requests and premium bills on behalf of all enrolled family members. For purposes of Chapter 55-01 WAC, notice to a subscriber shall be considered notice to all enrolled members of the subscriber's family as well.

(23) "Subsidy" means the difference between the rate paid by the administrator, from funds appropriated from the basic health plan trust account, to a managed health care system on behalf of an enrollee and the enrollee's premium responsibility.

(24) "Washington Basic Health Plan" or "plan" means the system of enrollment and payment on a pre-paid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by chapter 70.47 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.

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

## WSR 89-08-056

## ADOPTED RULES

**HIGHER EDUCATION COORDINATING BOARD**

[Order 1-89, Resolution No. HECB 89-3—Filed March 31, 1989]

Be it resolved by the Higher Education Coordinating Board, acting at Olympia, Washington, that it does adopt the annexed rules relating to the displaced homemaker program, chapter 250-44 WAC.

This action is taken pursuant to Notice No. WSR 89-04-048 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 28B.04 RCW, as amended 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 16, 1989.

By Ann Daley  
Executive Director

**AMENDATORY SECTION** (Amending Order 4-87, Resolution No. 87-57, filed 7/31/87)

WAC 250-44-050 UTILIZATION OF AVAILABLE CONTRACT FUNDS. (1) Each biennium the executive director shall issue contract application guidelines which shall establish criteria for specific utilization of available contract funds. The guidelines shall set forth:

(a) The maximum contract amount for a multipurpose service center to be provided depending on available funds under the act during the ((1987-89)) 1989-91 biennium shall not exceed \$((4,300)) 4,600 per month.

(b) The maximum contract amount for a contract for a program or programs of service depending on available funds under the act during the ((1987-89)) 1989-91 biennium shall not exceed \$((2,900)) 3,200 per month.

(c) A reservation of funds for contracts to provide state-wide outreach and information services and/or training for service providers.

(2) At least two multipurpose service centers in major population centers will be supported under the displaced homemaker program, provided adequate funds have been appropriated.

(3) Remaining funds will be used for contracts selected to provide geographic dispersion of displaced homemaker multipurpose service centers and programs of service.

**AMENDATORY SECTION** (Amending Order 4-87, Resolution No. 87-57, filed 7/31/87)

WAC 250-44-110 LENGTH OF CONTRACT PERIODS. Contract periods for contracts awarded under the act shall be in accordance with each application

proposal, subject to contract application guidelines issued by the executive director.

(1) Contracts for operation of multipurpose service centers during the ~~((1987-89))~~ 1989-91 biennium may cover operations beginning as early as ~~((October 1, 1987))~~ July 1, 1989, and ending June 30, ~~((1989))~~ 1991.

(2) Contracts for operation of programs of services during the ~~((1987-89))~~ 1989-91 biennium may cover operations beginning as early as ~~((October 1, 1987))~~ July 1, 1989, and ending June 30, ~~((1989))~~ 1991.

**AMENDATORY SECTION** (Amending Order 4-87, Resolution No. 87-57, filed 7/31/87)

**WAC 250-44-130 CALENDAR AND CLOSING DATES FOR LETTERS OF INTENT, APPLICATIONS AND AWARDS.** (1) Sponsoring organizations wishing to apply for contracts to operate multipurpose service centers, shall submit to the executive director a letter of intent, accompanied by appropriate documentation of nonprofit status in the case of nonpublic applicants, by ~~((Friday, August 21, 1987))~~ Monday, March 6, 1989, as specified in the contract application guidelines.

(2) The executive director or the director's designee will screen the letters of intent for multipurpose service centers, prepare a list of all eligible sponsoring organizations which filed letters of intent and distribute the list to all organizations on the list, by ~~((Friday, August 28, 1987))~~ Monday, March 13, 1989, or seven days from the filing date for letters of intent as specified in the contract application guidelines.

(3) Applications for contracts for multipurpose service centers may be submitted by sponsoring organizations on the list pursuant to subsection (2) of this section. The closing dates for such applications by ~~((Friday, September 18, 1987))~~ Wednesday, April 5, 1989, as specified in the contract application guidelines.

(4) Sponsoring organizations wishing to apply for contracts to operate programs of service and a state-wide outreach and information services program shall submit to the executive director a letter of intent, accompanied by appropriate documentation of nonprofit status in the case of nonpublic applicants, by ~~((Friday, August 21, 1987))~~ Monday, March 6, 1989.

(5) The executive director or the director's designee will screen the letters of intent for programs of service and a state-wide outreach and information services program, prepare a list of all eligible sponsoring organizations which filed letters of intent, and distribute the list to all organizations on the list, by ~~((Friday, August 28, 1987))~~ Monday, March 13, 1989, or seven days from the filing date for letters of intent as specified in the contract application guidelines.

(6) Applications for contracts for programs of service and a state-wide outreach and information services program may be submitted by sponsoring organizations on the list pursuant to subsection (5) of this section by ~~((Friday, September 18, 1987))~~ Wednesday, April 5, 1989, as specified in the contract application guidelines.

(7) The executive director of the board will approve awards of contracts, provided qualifying applications

were received by the closing dates specified in this section and in the guidelines.

(8) In the event that available funds for contracts under the act are not fully utilized after approval of contracts the executive director may either establish a new calendar for further consideration of applications and award of contracts or award supplemental funds to existing centers and programs by amendment of contracts in effect.

**WSR 89-08-057**

**EMERGENCY RULES**

**HIGHER EDUCATION COORDINATING BOARD**

[Order 1-89, Resolution No. HECB 89-3—Filed March 31, 1989]

Be it resolved by the Higher Education Coordinating Board, acting at Olympia, Washington, that it does adopt the annexed rules relating to the displaced homemaker program, chapter 250-44 WAC.

We, the Higher Education Coordinating Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are promulgated for emergency adoption so the board may begin the 1989-91 contract award process.

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

This rule is promulgated pursuant to chapter 28B.04 RCW, as amended 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 16, 1989.

By Ann Daley  
Executive Director

**AMENDATORY SECTION** (Amending Order 4-87, Resolution No. 87-57, filed 7/31/87)

**WAC 250-44-050 UTILIZATION OF AVAILABLE CONTRACT FUNDS.** (1) Each biennium the executive director shall issue contract application guidelines which shall establish criteria for specific utilization of available contract funds. The guidelines shall set forth:

(a) The maximum contract amount for a multipurpose service center to be provided depending on available funds under the act during the ~~((1987-89))~~ 1989-91 biennium shall not exceed ~~\$(4,300)~~ 4,600 per month.

(b) The maximum contract amount for a contract for a program or programs of service depending on available funds under the act during the ~~((1987-89))~~ 1989-91 biennium shall not exceed ~~\$(2,900)~~ 3,200 per month.

(c) A reservation of funds for contracts to provide state-wide outreach and information services and/or training for service providers.

(2) At least two multipurpose service centers in major population centers will be supported under the displaced homemaker program, provided adequate funds have been appropriated.

(3) Remaining funds will be used for contracts selected to provide geographic dispersion of displaced homemaker multipurpose service centers and programs of service.

**AMENDATORY SECTION** (Amending Order 4-87, Resolution No. 87-57, filed 7/31/87)

**WAC 250-44-110 LENGTH OF CONTRACT PERIODS.** Contract periods for contracts awarded under the act shall be in accordance with each application proposal, subject to contract application guidelines issued by the executive director.

(1) Contracts for operation of multipurpose service centers during the ~~((+1987-89))~~ 1989-91 biennium may cover operations beginning as early as ~~((October 1, 1987))~~ July 1, 1989, and ending June 30, ~~((+1989))~~ 1991.

(2) Contracts for operation of programs of services during the ~~((+1987-89))~~ 1989-91 biennium may cover operations beginning as early as ~~((October 1, 1987))~~ July 1, 1989, and ending June 30, ~~((+1989))~~ 1991.

**AMENDATORY SECTION** (Amending Order 4-87, Resolution No. 87-57, filed 7/31/87)

**WAC 250-44-130 CALENDAR AND CLOSING DATES FOR LETTERS OF INTENT, APPLICATIONS AND AWARDS.** (1) Sponsoring organizations wishing to apply for contracts to operate multipurpose service centers, shall submit to the executive director a letter of intent, accompanied by appropriate documentation of nonprofit status in the case of nonpublic applicants, by ~~((Friday, August 21, 1987))~~ Monday, March 6, 1989, as specified in the contract application guidelines.

(2) The executive director or the director's designee will screen the letters of intent for multipurpose service centers, prepare a list of all eligible sponsoring organizations which filed letters of intent and distribute the list to all organizations on the list, by ~~((Friday, August 28, 1987))~~ Monday, March 13, 1989, or seven days from the filing date for letters of intent as specified in the contract application guidelines.

(3) Applications for contracts for multipurpose service centers may be submitted by sponsoring organizations on the list pursuant to subsection (2) of this section. The closing dates for such applications by ~~((Friday, September 18, 1987))~~ Wednesday, April 5, 1989, as specified in the contract application guidelines.

(4) Sponsoring organizations wishing to apply for contracts to operate programs of service and a state-wide outreach and information services program shall submit to the executive director a letter of intent, accompanied by appropriate documentation of nonprofit status in the case of nonpublic applicants, by ~~((Friday, August 21, 1987))~~ Monday, March 6, 1989.

(5) The executive director or the director's designee will screen the letters of intent for programs of service and a state-wide outreach and information services program, prepare a list of all eligible sponsoring organizations which filed letters of intent, and distribute the list to all organizations on the list, by ~~((Friday, August 28, 1987))~~ Monday, March 13, 1989, or seven days from the filing date for letters of intent as specified in the contract application guidelines.

(6) Applications for contracts for programs of service and a state-wide outreach and information services program may be submitted by sponsoring organizations on the list pursuant to subsection (5) of this section by ~~((Friday, September 18, 1987))~~ Wednesday, April 5, 1989, as specified in the contract application guidelines.

(7) The executive director of the board will approve awards of contracts, provided qualifying applications were received by the closing dates specified in this section and in the guidelines.

(8) In the event that available funds for contracts under the act are not fully utilized after approval of contracts the executive director may either establish a new calendar for further consideration of applications and award of contracts or award supplemental funds to existing centers and programs by amendment of contracts in effect.

**WSR 89-08-058**

**PROPOSED RULES**

**DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed April 3, 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:

- Amd WAC 296-125-043 Minimum wages for minors.
- Amd WAC 296-126-020 Minimum wages—Minors.

The proposed rules are intended to establish a new minimum wage for persons under the age of 18. WAC 296-125-043(1) and 296-126-020(1) establishes a minimum wage of 85% per house of the minimum wage established for adults, age 18 and over, pursuant to RCW 49.46.020.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 10, 1989.

The authority under which these rules are proposed is chapters 49.12 and 49.46 RCW.

The specific statute these rules are intended to implement is chapters 49.12 and 49.46 RCW.

This notice is connected to and continues the matter in Notice Nos. WSR 89-01-111 and 89-06-035 filed with the code reviser's office on December 21, 1988, and February 24, 1989.

Dated: April 3, 1989

By: Joseph A. Dear

Director

**WSR 89-08-059**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed April 3, 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:

- Amd WAC 356-18-220 Leave without pay—Effect on anniversary date and periodic increment date.  
 Amd WAC 356-05-390 Seniority;

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.

Dated: March 31, 1989  
 By: Robert Boysen  
 Acting Director

#### STATEMENT OF PURPOSE

**Title:** Amending WAC 356-18-220 Leave without pay—Effect on anniversary date and periodic increment date.

**Purpose:** This rule describes the effects of leave without pay has on anniversary dates and periodic increment dates.

**Statutory Authority:** RCW 41.06.150.

**Summary:** This proposal adds new language to subsections (b), (c) and (e) and adds a new paragraph (5). It adds a two year limit on government service leave; further defines "injuries sustained while performing the employee's state job"; and cross references WAC 356-30-335. New paragraph (5) specifies that leave without pay taken for reasons described in paragraph (2) will not affect the employee's seniority.

**Reasons:** For clarification of current application of this rule.

**Title:** Amending WAC 356-05-390 Seniority.

**Purpose:** Defines seniority and describes how it relates to other merit system rules.

**Statutory Authority:** RCW 41.06.150.

**Summary:** Modifies the language to accommodate proposed changes to WAC 356-18-220.

**Reasons:** Clarification of the affects of leave without pay on seniority. Cross references WAC 356-18-220(2) and deletes specific references to various leave without pay reasons in this rule.

**Responsibility for Drafting:** John Calhoun, Department of Transportation, Transportation Building, KF-

01, Olympia, WA 98504, phone (206) 753-7337; Implementation and Enforcement: Department of Personnel and individual state agencies.

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

**Comments or Recommendations:** None.

**Rule Proposal a Result of Federal Law, or Federal or State Court Action:** No.

#### AMENDATORY SECTION (Amending Order 314, filed 2/24/89)

**WAC 356-18-220 LEAVE WITHOUT PAY—EFFECT ON ANNIVERSARY DATE ((AND)), PERIODIC INCREMENT DATE AND SENIORITY.** (1) Leave without pay of fifteen consecutive calendar days or less will not affect an employee's anniversary date or periodic increment date.

(2) When an employee is on leave without pay for more than fifteen consecutive days, the employee's ((seniority)) anniversary date and periodic increment date will not be affected when the absence is due to any of the following reasons:

(a) Military or United States public health service and Peace Corps;  
 (b) Government service, not to exceed two years, which had the director of personnel's approval;

(c) Leave taken by employees receiving time loss compensation due to ((f))injuries sustained while performing the employee's state job;

(d) Educational leave in accordance with the provisions of WAC 356-39-120;

(e) Leave without pay taken voluntarily under the provisions of WAC 356-30-335 to reduce the effect of an agency reduction in force.

(3) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed in subsection (2) of this section, the employee's anniversary date and periodic increment date shall be moved forward in an amount equal to the duration of the leave of absence.

(4) When an employee's position is assigned to a program or facility whose primary purpose is academic and/or vocational education, and the program or facility follows the customary public school practice of less than a twelve-month school year, the employing agency may place the employee on leave without pay while the program or facility is closed for customary school vacations without adjusting the employee's anniversary and periodic increment dates.

(5) Leave without pay taken for any of the reasons listed in subsection (2) of this section shall not affect an employee's seniority.

#### AMENDATORY SECTION (Amending Order 267, filed 2/1/87 [1/2/87])

**WAC 356-05-390 SENIORITY.** A measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the state personnel board. Service in positions brought under the jurisdiction of the state personnel board by statute is counted as though it had previously been under the jurisdiction of the state personnel board. Leaves of absence granted by agencies and separations due to reduction in force are not considered a break in service. Time spent on leaves of absence without pay is not credited unless it is approved for ((educational leaves)) the reasons cited in WAC 356-18-220(2), or statutes require it be credited((; or it is taken at the specific request of an agency so employees may perform work specifically related to state work)). Time spent off the state payroll due to reduction in force will be credited for that period of time the employee is eligible to be placed on the reduction in force register. ((Leaves without pay granted to directly or indirectly reduce the possible effect of reduction in force will be credited in accordance with WAC 356-18-140 and 356-18-220. Leaves of absence without pay granted to employees who are drawing worker's compensation because of injury or illness while employed by the state will be credited.)) Time spent in exempt appointments listed in RCW 41.06.070 will be credited and the service will not be regarded as broken when employees return from exempt service in accordance to RCW 41.06.070(26), WAC 356-06-055 and WAC 356-30-330. Time spent under the jurisdiction of the higher education personnel board will be added when the employee comes under the jurisdiction of the state personnel board through the provisions of WAC 356-49-040. The length of active military service of a veteran, not to exceed five years, shall be added to the state service for such veteran or the deceased veteran's spouse as defined in WAC 356-05-470.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 89-08-060**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed April 3, 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 miscellaneous leave, amending WAC 356-18-120;

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.

Dated: March 30, 1989  
 By: Robert Boysen  
 Acting Director

**STATEMENT OF PURPOSE**

**Title:** Amending WAC 356-18-120, Miscellaneous leave.

**Purpose:** This rule prescribes the circumstances under which state agencies may grant miscellaneous "paid" leave to employees. The rule further prescribes what must be done with the compensation the employee receives from their civil duty employer.

**Statutory Authority:** RCW 41.06.150(8).

**Summary:** This proposal would allow employees on miscellaneous leave to retain any compensation received from their civil duty employer without a corresponding adjustment in their state salary.

**Reasons:** The cost of administering the existing rule (obtaining documentation on civil duty pay received and reducing the employees gross salary by a like amount) exceeds the savings to the state.

**Responsibility for Drafting:** John Calhoun, Department of Transportation, Transportation Building, KF-01, Olympia, WA 98504, phone (206) 753-7337; **Implementation and Enforcement:** Department of Personnel and individual state agencies.

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

**Comments or Recommendations:** The State Personnel Board expressed a desire in May 1988 to treat compensation earned by employees on miscellaneous leave in the same manner as the state treats compensation earned by employees on military training leave.

**Rule Proposal a Result of Federal Law, or Federal or State Court Action:** No.

AMENDATORY SECTION (Amending Order 297, filed 3/11/88)

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

(2) ~~((Employees who receive compensation for performing civil duties during working hours shall retain the amount compensated and any travel reimbursement and per diem. The salary or wages of an employee receiving compensation for civil duties shall be reduced by an amount equal to the civil duty pay excluding that amount designated as travel reimbursement or per diem. Employees receiving such compensation shall provide their agency with documentation showing the amount of civil duty pay.))~~ Employees on miscellaneous leave shall receive their basic salary and, in addition, shall be allowed to retain any compensation paid to them by their civil duty employer.

**WSR 89-08-061**  
**REVIEW OF RULES**  
**DEPARTMENT OF TRANSPORTATION**  
 [Filed April 3, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Department of Transportation intends to review the following rules:

- Ch. 468-14 WAC Small business and minority contractors (Highway Division).
- Ch. 468-30 WAC Highway property (Highway Division).
- Ch. 468-34 WAC Utility lines—Franchises and permits (Highway Division).
- Ch. 468-54 WAC Limited access hearings (Highway Division).
- Ch. 468-58 WAC Limited access highways (Highway Division).

The agency will at 10:00 a.m., Monday, June 19, 1989, in the Boardroom, Room 1D 2, Transportation Building, Olympia, Washington, conduct a public hearing on the rules.

This administrative review of rules is a result of SSB 3386, chapter 324, Laws of 1981. As a result, the Department of Transportation has outlined a schedule for reviewing all of its rules once every four years.

Dated: April 3, 1989  
 By: Ed W. Ferguson  
 Deputy Secretary

**WSR 89-08-062**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**  
 [Filed April 3, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning the practice of pharmacy including, the amending of WAC 360-17-055 Emergency outpatient medications;

that the agency will at 1:30 p.m., Wednesday, May 17, 1989, in the Marriott Courtyard Inn, North 403 Riverpoint, Spokane, WA 99212, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.64.005.



The specific statute these rules are intended to implement is RCW 18.64.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 17, 1989.

Dated: March 31, 1989

By: John H. Keith  
Assistant Attorney General  
Board Counsel

### STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Pharmacy.

Statutory Authority: RCW 18.64.005.

Summary, Purpose of Rule and Reason Proposed: WAC 360-17-055 would be amended to permit nurses at rural hospitals to dispense prescriptions under certain circumstances.

Responsible Agency Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East Seventh Avenue, W.E.A. Building, FF-21, Olympia, WA 98504, phone (206) 753-6834.

Proponents of the Proposed Rules: Washington State Board of Pharmacy.

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

Small Business Economic Impact Statement: Not necessary since these rules do not impact small businesses as that term was defined by RCW 43.31.920.

### AMENDATORY SECTION (Amending Order 179, filed 11/23/83)

WAC 360-17-055 EMERGENCY OUTPATIENT MEDICATIONS. The director of pharmacy of a hospital shall, in concert with the appropriate committee of the hospital medical staff, develop policies and procedures, which shall be implemented, to provide emergency pharmaceuticals to outpatients during hours when normal community or hospital pharmacy services are not available. The delivery of a single dose for immediate administration to the patient shall not be subject to this regulation. Such policies shall allow the designated registered nurse(s) to deliver medications other than controlled substances, pursuant to the policies and procedures which shall require that:

(1) An order of a practitioner authorized to prescribe a drug is presented. Oral or electronically transmitted orders must be verified by the prescriber in writing within 72 hours.

(2) The medication is prepackaged by a pharmacist and has a label that contains:

(a) Name, address, and telephone number of the hospital.

(b) The name of the drug (as required by chapter 360-49 WAC), strength and number of units.

(c) Cautionary information as required for patient safety and information.

(d) An expiration date after which the patient should not use the medication.

(3) No more than a 24-hour supply is provided to the patient except when the pharmacist has informed appropriate hospital personnel that normal services will not be available within 24 hours.

(4) The container is labeled by the designated registered nurse(s) before presenting to the patient and shows the following:

(a) Name of patient;

(b) Directions for use by the patient;

(c) Date;

(d) Identifying number;

(e) Name of prescribing practitioner;

(f) Initials of the registered nurse;

(5) The original or a direct copy of the order by the prescriber is retained for verification by the pharmacist after completion by the designated registered nurse(s) and shall bear:

(a) Name and address of patient;

(b) Date of issuance;

(c) Units issued;

(d) Initials of designated registered nurse.

(6) The medications to be delivered as emergency pharmaceuticals shall be kept in a secure place in or near the emergency room in such a manner as to preclude the necessity for entry into the pharmacy.

(7) The procedures outlined in this rule may not be used for controlled substances(-) except at the following rural hospitals which meet all three of the rural access project criteria:

Hospital	City
1. Lake Chelan Community Hospital	Chelan
2. St. Joseph's Hospital	Chewelah
3. Whitman Community Hospital	Colfax
4. Lincoln Hospital	Davenport
5. Dayton General Hospital	Dayton
6. Ocean Beach Hospital	Ilwaco
7. Newport Community Hospital	Newport
8. Jefferson General Hospital	Port Townsend
9. Ritzville Memorial Hospital	Ritzville
10. Willapa Harbor Hospital	South Bend

### WSR 89-08-063

#### ADOPTED RULES

#### DEPARTMENT OF LICENSING

#### (Board of Medical Examiners)

[Order PM 831—Filed April 3, 1989]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to physician assistant AIDS prevention and information education requirements, WAC 308-52-190.

This action is taken pursuant to Notice No. WSR 89-05-056 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 70.24.270 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 24, 1989.

By James M. Garrison, Jr., M.D.  
Chair

### NEW SECTION

WAC 308-52-190 PHYSICIAN ASSISTANT AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS. (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

(2) Application for registration. Effective July 1, 1989 persons who submit an application for physician assistant registration shall submit, prior to being granted a registration and in addition to the other requirements, evidence to show compliance with the educational requirements of subsection (4) or shall certify that such requirements will be satisfied by the date of the applicant's first renewal.

(3) 1989 renewal of registration. Effective with the renewal period beginning July 1, 1989, through June 30, 1990, all persons making application for physician assistant renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4). Renewal applicants who have documented hardship which prevents obtaining the required education on AIDS may petition the board for an extension.

(4) AIDS education and training.

(a) Acceptable education and training. The board will accept education and training that qualifies for continuing medical education credit. Such education and training shall be a minimum of four clock hours regarding the prevention, transmission and treatment of AIDS, and may include, but is not limited to, the following: etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective July 1, 1989, the requirement for registration, renewal, or reinstatement of any registration that is lapsed, inactive, or revoked or actually suspended for a term during which the physician assistant did not obtain the required AIDS education and training shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (a).

(c) Documentation. The physician assistant or applicant for registration shall:

(i) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987;

(ii) Keep records for two years documenting education and training and description of the learning;

(iii) Be prepared to validate, through submission of these records, that education and training has taken place.

**WSR 89-08-064**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF TRANSPORTATION**  
 [Filed April 3, 1989]

The Department of Transportation is withdrawing the notice of intent to adopt, amend or repeal rules filed on March 10, 1989, WSR 89-07-034, pertaining to pre-qualification of contractors.

Ed W. Ferguson  
 Deputy Secretary

**WSR 89-08-065**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—March 31, 1989]

The Washington State Human Rights Commission will hold its next regular commission meeting in Moses Lake. The meeting on April 26 will be held at the Super 8 Motel, Conference Room, 449 Melva Lane, Moses Lake, beginning at 7:00 p.m. and will be a training and work session. The regular business meeting will be held at the same location, beginning at 9:30 a.m. on April 27. The topic of discussion for the month of April will be employment. The commission will also focus on housing as a topic for the year.

**WSR 89-08-066**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—March 31, 1989]

The Washington State Human Rights Commission will hold a special commission meeting with a representative from the Office of Financial Management on April 21, 1989, beginning at 6:30 p.m. An executive session will be called if necessary. The meeting will be held at the Port of Seattle, Third Floor Commission Chambers, Pier 66, Seattle.

**WSR 89-08-067**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION IMPROVEMENT BOARD**  
 [Memorandum—March 31, 1989]

MEETING NOTICE FOR  
 APRIL AND MAY 1989  
 TRANSPORTATION IMPROVEMENT BOARD  
 TRANSPORTATION BUILDING  
 OLYMPIA, WASHINGTON 98504

Work Session, 3:00-5:00 p.m., Thursday, April 20, 1989, at the Transportation Building, Room 3F-21, Olympia.

TIB Meeting, 9:30 a.m., Friday, April 21, 1989, at the Transportation Building, Olympia.

TIB Meeting, 9:30 a.m., Friday, May 19, 1989, at Vancouver (location to be determined).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 25, 1989.

Dated: April 4, 1989  
By: Lue Clarkson  
Administrator

**WSR 89-08-068**  
**PROPOSED RULES**  
**TRANSPORTATION COMMISSION**  
[Filed April 4, 1989]

**STATEMENT OF PURPOSE**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, 47.60.326 and 47.56.030, that the Washington State Transportation Commission intends to adopt, amend, or repeal rules concerning change bicycle tariff and special school rates, and clarification of other categories such as priority loading, truck definition and vanpools;

Title: Change in bicycle tariff and special school rate. Clarification of various categories.

Statutory Authority: RCW 47.60.326.

that the agency will at 10:00 a.m., Thursday, May 25, 1989, in the Transportation Building, Room 1D2, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

Summary of Rule: Change bicycle tariff and special school rates, and clarification of other categories such as priority loading, truck definition and vanpools.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Assistant Secretary for Marine Transportation, H. W. Parker.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 25, 1989.

Person or Organization Proposing Rule and Whether Public, Private or Governmental: Washington State Transportation Commission, governmental.

The authority under which these rules are proposed is RCW 47.56.030 and 47.60.326.

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

The specific statute these rules are intended to implement is RCW 47.60.326.

Small Business Economic Impact Statement: The department has considered this rule and it does not affect industry.

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-010 FERRY PASSENGER TOLLS.

Effective 03:00 a.m. July 1, 1989

ROUTES	Full Fare	Half Fare**	COM-MU-TATION 20 Rides (***) ****	Bicycle Surcharge *****
<b>Via Passenger-Only Ferry</b>				
Seattle-Vashon Seattle-Southworth Seattle-Bremerton	3.30	1.65	19.80	<u>N/C</u>
<b>Via Auto Ferry</b>				
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Edmonds-Kingston	3.30	1.65	19.80	<u>.50</u>
Pt. Townsend-Keystone	1.65	.85	19.80	<u>.25</u>
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah Mukilteo-Clinton	2.15	1.10	12.90	<u>.50</u>
Anacortes to Lopez, Shaw, Orcas or Friday Harbor	4.65	2.35	27.90	<u>1.00</u>
Anacortes to Sidney and Sidney to all destinations	6.05	3.05	N/A	<u>2.50</u>
Between Lopez, Shaw, Orcas***** and Friday Harbor	N/C	N/C	N/C	<u>2.25</u>
From Lopez, Shaw, Orcas and Friday Harbor@ to Sidney	2.25	1.25	N/A	<u>1.00</u>

@These fares rounded to the nearest multiple of \$ .25.

\*These routes operate as a one-point toll collection system.

\*\*Half Fare

Children - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.

Senior Citizens - Passengers and driver, age 65 and over, with proper identification establishing proof of age, may travel at half-fare tolls on any route. ((Includes passengers in vehicles licensed as stages and buses unless travelling under annual permit.

NOTE: - Half-fare privilege does not include vehicle.

~~Children - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.))~~

Handicapped - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, may travel at half-fare tolls on any route upon presentation of a WSF Handicapped Travel Permit or Regional Reduced Fare Permit at time of travel. In addition, those handicapped persons who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Handicapped Travel Permit and such endorsement shall allow the attendant to also travel at half fare.

Bus Passengers - Passengers traveling in vehicles licensed as stages and buses, unless traveling under an annual permit, will be charged half-fare.

Medicare Card Holders - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare tolls on any route upon presentation of a WSF Handicapped Travel Permit or a Regional Reduced Fare Permit at time of travel.

NOTE: Half-fare privilege does not include vehicle.

((~~\*\*\*A combination ferry/bus public transit passenger monthly reusable ticket rate may be available for a particular route in conjunction with a public transit operating authority whenever it is determined by the transportation commission that said ticket is a necessary element of a transit operating plan designed to eliminate the necessity for assigning an additional ferry to such particular route, and that the resulting savings in ferry system operating and amortized capital costs exceed the total revenue lost as a result of this reduced rate as projected during the period of time during which such transit operating plan is projected to eliminate the need for an additional ferry. The equivalent ferry fare per ride with this special rate shall be one-half the equivalent fare per ride with the standard commutation book, and shall assume 40 one-way trips per month. The total cost of the ticket shall be the cost of the ferry portion, calculated as described above plus the cost of the bus portion as determined by the public transit operating authority, subject to the approval of the secretary of transportation. The ticket shall be valid only for passengers on board a bus, or for walk-on passengers on those routes which have connecting bus service as part of the transit operating plan. The assigning of an additional ferry to such particular route may be cause for removal of the special rate. If the conditions of eliminating the assignment of an additional ferry or realizing sufficient resulting savings cannot be met, the ticket may be sold for any route authorized by the secretary of transportation, at the full ferry commutation fare per ride based on forty one-way trips per month plus the cost of the bus portion.))~~

~~\*\*\*Commutation tickets shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Washington state ferries shall enter into agreements with banks to sell commutation tickets.~~

~~\*\*\*\*Inter-island passenger fares included in Anacortes tolls.~~

~~\*\*\*\*\*Bicycle surcharge is in addition to the appropriate passenger fare.~~

PROMOTIONAL TOLLS

A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

SPECIAL SCHOOL RATE

Individuals in school groups on institution-sponsored activities may travel at half-fare when in groups of one to fifteen and quarter-fare in groups larger than fifteen. A letter of authorization is required to receive the discount.

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-020 AUTO, MOTORCYCLE, ((BICYCLE)) AND STOWAGE FERRY TOLLS.

Effective 03:00 a.m. July 1, 1989

	AUTO** INCL. DRIVER		MOTORCYCLE INCL. DRIVER		((BICYCLE & RIDER *****		
	One Way	Commutation 20 Rides ***	One Way	Commutation 20 Rides ***	Full Fare One-Way	Half Fare One-Way	Commutation 20 Rides ***
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	5.55	88.80	3.05	40.65	2.30	1.50	23.00
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	7.50	60.00	4.10	27.35	3.20	2.15	16.00
Mukilteo-Clinton	3.75	60.00 10 Rides	2.05	27.35	1.60	1.10	16.00
Anacortes to Lopez, Shaw, Orcas or Friday Harbor	11.60 13.85 15.85	46.40 55.40 63.40	7.15 8.20 9.50	47.65 54.65 63.35	6.25	3.95	31.25
Anacortes to Sidney and Sidney to all destinations	26.05	N/A	13.15	N/A	8.55	5.55	N/A

Effective 03:00 a.m. July 1, 1989

	AUTO** INCL. DRIVER		MOTORCYCLE INCL. DRIVER *****		((BICYCLE & RIDER		
	One Way	Commutation 20 Rides ***	One Way	Commutation 20 Rides ***	Full Fare One-Way	Half Fare One-Way	Commutation 20 Rides ***
Between Lopez, Shaw, Orcas and Friday Harbor **** @	6.50	26.00	2.25	N/A	2.25	2.25	N/A
From Lopez, Shaw, Orcas@ and Friday Harbor to Sidney	13.25	N/A	6.00	N/A	3.25	2.25	N/A))

@These fares rounded to the nearest multiple of \$ .25.

\*These routes operate as a one-point toll collection system.

\*\*Vanpools - A commuter vanpool which carries seven or more persons on a regular and expense-sharing basis for the purpose of travel to or from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for a three-month period ((on Mondays through Fridays only and)) valid only during the hours shown on the permit. The permit for commuter pool agency vanpools shall be valid for one year. By July 1, 1990, all vanpools will be required to have tax exempt or vanpool specialized licenses. The fee for private vanpool permits will be reduced from ten dollars per quarter to ten dollars per year to coincide with the fee charged to public vanpools, effective July 1, 1990. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The permit so purchased shall allow passage of the vehicle only during the valid periods. All riders in the van, including the driver, shall pay the applicable passenger fare. Except that the minimum total paid for all riders in the van shall not be less than the amount equal to ((seven)) four times the applicable passenger fare.

\*\*\*Commutation tickets shall be valid only for 90-days from date of purchase after which time the ticket shall not be accepted for passage. Washington state ferries shall enter into agreements with banks to sell commutation tickets.

\*\*\*\*Tolls collected westbound only.

\*\*\*\*\* Carry on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

SUMMER SURCHARGE

A 20% surcharge shall be applied to coincide with the summer schedule period to regular, noncommutation auto and noncommercial vehicles with trailers and oversize vehicles.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

Overhang on passenger vehicles will be assessed a penalty charge of 10¢ per lineal foot of overhang in addition to regular applicable tolls, except that no charge for overhang will be assessed when overall length of vehicle and overhang is less than twenty feet. A fraction of a foot of overhang in excess of six inches will be counted as one foot in assessment of charge for overhang.

SPECIAL SCHOOL RATE

School groups when traveling in authorized school vehicles for institution-sponsored activities shall be assessed a flat fee of \$1.00 per vehicles load of students and/or advisors and staff. The flat fee shall be in addition to regular vehicle and drive toll. Private vehicles need letter of authorization.

NOTE: Special school rate is \$2.00 on routes where one-way only toll systems are in effect. Special student Rate not available on Anacortes-Sidney, B.C. route beginning the third Sunday in June and ending the third Saturday in September due to limited space.

PROMOTIONAL TOLLS

A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-040 TRUCKS AND TRUCKS WITH TRAILER FERRY TOLLS.

Effective 03:00 a.m. July 1, 1989

ROUTES	Class I *** Under 18'	INCL. DRIVER OVERALL UNIT LENGTH				Class V Under 58'	Class VI Under 68'	Class VII Under 78'	Class VIII Over 78'	Cost Per Ft. over 78 Ft.
		Class II Under 28'	Class III Under 38'	Class IV Under 48'	Class V Under 58'					
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	5.55	9.40	18.65	27.85	37.10	46.35	55.50	55.50	.80	
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	7.50	13.20	26.20	39.00	51.90	64.90	77.90	77.90	1.10	

Effective 03:00 a.m. July 1, 1989

ROUTES	INCL. DRIVER OVERALL UNIT LENGTH								Cost Per Ft. over 78 Ft.
	Class I *** Under 18'	Class II 18' to Under 28'	Class III 28' to Under 38'	Class IV 38' to Under 48'	Class V 48' to Under 58'	Class VI 58' to Under 68'	Class VII 68' to Under 78'	Class VIII Over 78'	
Mukilteo-Clinton	3.75	6.60	13.10	19.50	25.95	32.45	38.95	38.95	.55
**Anacortes to Lopez, Shaw, Orcas * or Friday Harbor	11.60 13.85 15.85	22.45	44.65	66.80	88.95	111.20	133.35	133.35	1.85
Anacortes to Sidney **and Sidney to all destinations	26.05	34.20	57.70	81.20	104.75	128.40	151.95	151.95	2.10
**Between Lopez, Shaw, Orcas ****@ and Friday Harbor	6.50	11.00	11.00	11.00	44.00	44.00	44.00	44.00	N/A
**From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	13.25	20.00	34.00	48.00	61.50	75.50	89.25	89.25	1.00

@These fares rounded to the nearest multiple of \$ .25.

\*These routes operate as a one-point toll collection system.

\*\*Commercial trucks are allowed stop-over at intermediate points upon payment of \$2.50 per stop-over.

\*\*\*Includes all trucks licensed 8,001 lbs. gross vehicle weight and above, except busses. Trucks under 8,001 lbs. will be classified as automobiles.

Also includes all trucks licensed 8,001 lbs. gross vehicle weight and above pulling trailers, vehicles licensed as fixed load, unlicensed vehicles and road machinery on wheels. Vehicles not included in this class cannot be charged under this class.

\*\*\*\*Toll collected westbound only.

**PENALTY CHARGES**

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

**DISCOUNT PERCENTAGES FROM REGULAR TOLL**

12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 25% discount from the regular ferry tolls.

Emergency trips during nonservice hours - while at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

**AMENDATORY SECTION** (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

**WAC 468-300-070 NONCOMMERCIAL VEHICLE WITH TRAILER, OVERSIZE VEHICLE, STAGE AND BUS, NEWSPAPER, EXPRESS SHIPMENTS AND MEDICAL SUPPLIES FERRY TOLLS.**

Effective 03:00 a.m. July 1, 1989

**Noncommercial Vehicle with Trailer, Oversize Vehicle,  
Stage and Bus, Newspaper, Express Shipments and  
Medical Supplies Ferry Tolls\*\*\***

	((Under 18'	18' To Under 28'	28' To Under 38'	38' To Under 48'	48' And Over	Stages And Buses Incl. Driver **
Seattle-Winslow Seattle-Bremerton Edmonds-Kingston Pt. Townsend-Keystone Fauntleroy-Southworth	5.55	8.35	11.25	15.90	20.50	12.25
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	7.50	11.40	15.80	22.20	28.80	15.70
Mukilteo-Clinton	3.75	5.70	7.90	11.10	14.40	7.85
Anacortes to Lopez, Shaw, Orcas * or Friday Harbor	11.60 13.85 15.85	20.45	27.05	38.10	49.20	33.30
Anacortes to Sidney and Sidney to all destinations	26.05	33.10	38.85	50.60	62.35	48.50

Effective 03:00 a.m. July 1, 1989

Noncommercial Vehicle with Trailer, Oversize Vehicle,  
Stage and Bus, Newspaper, Express Shipments and  
Medical Supplies Ferry Tolls\*\*\*

	((Under 18'	18' To 28'	28' To 38'	38' To 48'	48' And Over	Stages And Buses Incl. Driver **
Between Lopez, Shaw, Orcas ****@ and Friday Harbor	6.50	11.00	11.00	11.00	44.00	11.00
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	13.25))	18.25	22.50	29.50	36.50	15.50

(1) BULK NEWSPAPERS per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

(2) EXPRESS SHIPMENTS per 100 lbs. \$20.90

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight requiring a minimum of handling by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled @ \$2.80 per 100 lbs.

(3) MEDICAL SUPPLIES per 100 lbs. \$1.15

@These fares rounded to the nearest multiple of \$ .25.

\*These routes operate as a one-point toll collection system.

\*\*Stages - A public transportation operator providing regularly scheduled week-day service for public necessity and convenience may pay a \$10 annual fee for each scheduled vehicle. This fee covers the fare for each trip of the vehicle and operator only. All occupants shall be assessed the applicable passenger rate per trip. The \$10 annual fee does not apply to vehicles providing chartered service or vehicles providing service for special events such as trips for recreational purposes.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

\*\*\*INCLUDES THE FOLLOWING VEHICLES PULLING TRAILERS:

- Automobiles
- Trucks licensed under 8,001 lbs. (For trucks 8,001 lbs. and over, see WAC 468-300-040)
- Oversize vehicles
- Does not include motorcycles with trailers.

Also includes motor homes, and mobile campers that exceed ((eight feet in height and)) 18' in length. Excludes trucks licensed over 8,000 lbs., passenger busses and stages.

ALL OVERSIZE VEHICLES UNDER 18' IN LENGTH WILL BE CONSIDERED AS REGULAR CAR AND DRIVER.

\*\*\*\*Toll collected westbound only.

Senior citizen discounts for the driver of the above vehicles shall apply.

Senior citizen discount is determined by subtracting full fare passenger rate and adding 1/2 passenger fare.

SUMMER SURCHARGE

A 20% surcharge shall be applied to coincide with this summer schedule period to regular, noncommutation auto and noncommercial vehicles with trailers and oversize vehicles.

AMENDATORY SECTION (Amending Order 61, Resolution No. 298, filed 5/21/87)

WAC 468-300-700 PREFERENTIAL LOADING. In order to protect public health, safety and commerce; to encourage more efficient use of the ferry system; and to reduce dependency on the single occupant private automobiles:

(1) Preferential loading privileges on vessels operated by Washington state ferries exempting vehicles from the standard first-come first-serve rule shall be granted, in the order set forth below, to:

- (a) Emergency vehicles actually involved in emergency operations;
- (b) Vehicles transporting persons with severe illnesses or severe disabilities such that the delay in loading which would otherwise result would cause health risks, undue strain or undue discomfort to those persons;
- (c) Appropriately marked law enforcement and emergency vehicles traveling on official business;

(d) Public transportation and/or pupil transportation vehicles owned or operated by public or private transportation operators providing transit or charter service under a certificate of public convenience and necessity issued by the utilities and transportation commission of the state of Washington or owned and operated by a local school district or private school system;

((d)) (e) Commuter vanpools which are certified in the manner set forth in WAC 468-300-020;

((e)) (f) Commuter car pools which shall consist of a minimum number of persons as determined by ferry system management: PROVIDED, That such minimum number shall in no case be less than three, and provided further that a formal registration system may be required as determined by ferry system management;

((f)) (g) Commercial vehicles traveling on routes where Washington state ferries is the only major access for landbased traffic, provided that the vehicles are carrying wholesale perishable article(s) of commerce to be bought or sold in commercial activity or to be used in the production of other such articles.

(2) Such preferential loading privileges shall be subject to the following conditions:

(a) Privileges shall be granted only where physical facilities are deemed by ferry system management to be adequate to achieve an efficient operation;

(b) Documentation outlining details of travel will be required in advance from all agencies, companies, or individuals requesting such privileges;

(c) Privileges may be limited to specified time periods as determined by ferry system management;

(d) Privileges may require a minimum frequency of travel, as determined by ferry system management;

(e) Privileges may be limited to a specific number of vehicle spaces for any one sailing; and,

(f) Privileges may require arriving at the ferry terminal a specified time prior to the scheduled sailing.

### WSR 89-08-069

#### PROPOSED RULES

### SEATTLE COMMUNITY COLLEGES

[Filed April 4, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Seattle Community College District intends to adopt, amend, or repeal rules concerning student complaints, WAC 132F-120-090;

that the institution will at 1:00 p.m., Tuesday, May 9, 1989, in the Arthur Siegal Education and Service Center, Conference Room A, 1500 Harvard, Seattle, WA 98122, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Tuesday, June 6, 1989.

The authority under which these rules are proposed is chapters 28B.50 and 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 6, 1989.

Dated: March 31, 1989

By: B. A. Barringer  
Interim Chancellor

#### STATEMENT OF PURPOSE

Title and Number of Rule: WAC 132F-120-090 Student complaints.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: Chapter 28B.50 RCW.

Summary of the Rules: This rule establishes a process whereby students may file a complaint against any member of the college community.

Reasons Supporting Proposed Action: Certain issues were raised concerning the student complaints procedure, and several changes have been made for implementation.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. B. A. Barringer, Interim Chancellor and Secretary to the board of trustees of Seattle Community College District VI, Arthur Siegal Education and Service Center, 1500 Harvard, Seattle, WA 98122.

Name of the Person or Organization, Whether Private, Public or Governmental, that is Proposing the

Change: Seattle Community College District VI board of trustees.

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

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 51, Resolution No. 1988-3, filed 4/6/88)

WAC 132F-120-090 STUDENT COMPLAINTS. Seattle Community College District shall establish a process whereby students may file a complaint against any member of the college community. ((Students who feel they have a complaint relating to an action by a member of the college community have the following procedure available:

(1) When a student has a complaint, he/she is encouraged first to consult with the person involved before initiating a complaint.

(2) When the student determines the complaint may be handled more appropriately without the person's involvement, a student may consult with a counselor to assist in determining the appropriate course of action or the student may contact the head of the appropriate division/department or the college's designated complaints officer.

(3) When complaints made to the head of the appropriate division/department have not been resolved, the student may bring the complaint to the complaints officer for further action.

(4) The designated complaints officer shall discuss the concerns outlined by the student and the options available for resolution. Should the student elect to proceed with a formal complaint, the concerns must be outlined in writing, specifying the complaint and identifying dates and persons involved as accurately as possible.

(a) When the written complaint is filed with the designated complaints officer, it shall be forwarded within fifteen calendar days to the appropriate division/department head and other persons named in the complaint for response, within fifteen calendar days.

(b) Should the written response not resolve the complaint, then a conference shall be convened by the designated complaints officer among all parties involved, within fifteen calendar days, for the purpose of achieving a resolution of the complaint.

(c) The designated complaints officer shall keep all written statements, transcripts, and minutes associated with the complaint as part of the confidential files of the campus.

(d) If the conference does not resolve the complaint, the designated complaints officer shall notify the appropriate dean and forward the complaint for resolution within five calendar days.

(5) The appropriate dean shall review the minutes, transcripts, and other pertinent statements and discuss the complaint with the parties involved. If complaints filed with the dean have not been resolved, the dean shall, within fifteen calendar days, issue a written recommendation to the president which offers a resolution to the complaint.

(6) The recommendations of the dean, as well as the written record, shall be reviewed by the president who may amend, modify, reverse or accept the recommendations, and who shall then implement the resolution of the complaint within thirty calendar days, in the absence of an appeal.

(7) Within fifteen calendar days following receipt of a written decision by the president, the complainant may appeal to the district president, who may upon review of the written record amend, modify, reverse, or concur in the decision. The district president shall, within fifteen calendar days of receiving the appeal, direct the college president to implement the resolution of the complaint. The decision of the district president shall be the final decision of the college district and no appeals of hearings to the board of trustees shall be provided. Any implementation to resolve a student complaint shall be in conformity with any written agreements between the college district and the employee(s) in question.

(8))) The following procedures are to be used for the handling and disposition of all student complaints, except to the extent that provision



is already established by written agreement between employer and employee. These procedures are available to all students and are intended to protect the rights of both the complainant and the respondent.

**(1) GENERAL PROVISIONS.**

(a) Each college president shall appoint a complaints mediator to handle student complaints. This position shall be filled by an employee whose position is below the level of dean and who receives special training for this position. The district president shall also designate a complaints mediator to handle complaints where a respondent to a complaint is a district office employee.

(b) The complaints mediator shall have the responsibility for investigating, mediating, and seeking resolution for informal complaints, and shall have responsibility for investigating formal complaints.

(c) Information on the identity and location of the complaints mediator and a description of this procedure shall be generally disseminated throughout the college district.

(d) An informal complaint under this procedure must be initiated within ninety calendar days of the occurrence of the condition, event, or circumstance which gave rise to the complaint and formal complaints must be initiated within one hundred twenty days of such occurrence.

**(2) INFORMAL COMPLAINTS.** The purpose of the informal process is investigation, mediation, and resolution of the complaint.

(a) Students who have a complaint are encouraged to talk directly with the respondent.

(b) If talking with the respondent does not reach a satisfactory result, or if it is inappropriate for the complainant to speak with the respondent, the complainant may request the intervention of either the supervisor of the person complained against or the complaints mediator, either of whom shall provide mediation between the parties, including, if necessary, a mediation conference. If no satisfactory resolution is reached at this level, the complainant may file a formal written complaint.

(c) If the subject of the complaint is a faculty member, the complaints mediator must give written notice of the complaint as per article 6.2 of the SCCD/SCCFT agreement. Once this notice is given, the complaint provisions of the SCCD/SCCFT agreement will apply.

**(3) FORMAL COMPLAINT.**

(a) The complainant shall file the signed formal complaint in writing with the complaints mediator. The complaint shall specify in writing the specific nature of the complaint including dates, times, places, and circumstances surrounding the allegations. The complaint shall include any written documentation or other information supporting the complaint. The mediator will give the respondent and the respondent's supervisor a copy of the written complaint as well as any other supporting written documentation submitted by the complainant. The respondent will have an opportunity to reply to the complaints mediator within fifteen calendar days of receipt of this written information. Upon receipt of the response, or in the absence of such response, the mediator shall investigate the complaint and carry out such further efforts at mediation as may be appropriate, which may include another conference between the parties. The mediator shall conclude this stage of the process within forty-five calendar days of receipt of the formal written complaint. If the complaint is resolved, the mediator shall send a written statement of the resolution to each of the parties to the complaint. If there is no response within five calendar days, the matter shall be considered closed.

(b) If after these efforts, the complaint is not resolved, the mediator will offer the complainant the opportunity to have the complaint forwarded to the appropriate dean. Where a respondent to a complaint is a district office employee the appropriate dean shall be the vice chancellor for human resources. If the complainant wishes to have the complaint forwarded, the mediator will submit a complete written report of the proceedings as well as any additional information or documentation to the appropriate dean, with copies to the complainant and the respondent. This information shall be submitted to the dean or vice chancellor within ten calendar days of receipt of the complainant's request to pursue the complaint further.

(c) Any of the parties shall have ten calendar days from receipt of this report in which to present additional information or arguments in writing to the dean or vice chancellor. Any of the parties during this ten-day period may also make a written request for an informal hearing.

(d) In the event an informal hearing is requested within the ten-day period, the dean shall hold this informal hearing within twenty calendar days of receiving the written request. The hearing shall be informal and shall afford the parties an opportunity to present any and all

relevant information and/or witnesses. The parties may cross-examine parties and witnesses, and may have the right to representation at this hearing.

(e) The dean will render a written decision within thirty calendar days of the informal hearing, or, if no such hearing is requested, within thirty calendar days of receiving the written record from the complaints mediator. The dean may also conduct further investigation prior to rendering the written decision. This written decision shall be communicated to all parties.

(f) Either the complainant or respondent may request a review of this decision by appealing in writing to the college president (or district president in the event that a respondent to a complaint is a district office employee) within ten calendar days of receipt of the dean's written decision. Otherwise, the dean or vice chancellor's decision is the final decision of the college district subject to discussion below.

Review by the college president or district president (where appropriate) shall be based solely upon review of the entire written record submitted by the dean or vice chancellor. Any written appeal at this stage shall be considered argument and not additional evidence. The president or district president shall accept, reject, or modify in whole or in part any or all of the dean or vice chancellor's decision, and render an independent written decision within fifteen calendar days of receipt of the written record. If the disposition of the complaint results in disciplinary action against a college employee, existing contractual or statutory procedures for administrative, academic, or classified staff shall be followed. In all other instances, the decision of the president or district president is the final decision of the college district and may not be appealed beyond this stage.

**(4) COMPLAINTS REGARDING GRADES.** No complaints requesting a grade review will be considered after two consecutive quarters, not to include summer quarter, from the date of issue for that grade. Student complaints related to grades shall be reviewed as follows:

(a) Students are encouraged to consult with the instructor before initiating a grade review process as outlined in this procedure.

(b) The student shall indicate the grade received in the course together with the reason for the complaint, specifying as accurately as possible all pertinent performance scores and attendance data. This information shall be filed in writing with the designated complaints officer.

(c) When the complaint has been received by the designated complaints officer, it shall be forwarded to the division/department administrator and the course instructor who reported the grade for the instructor's review and possible adjustment.

(d) The course instructor shall reply in writing, indicating the basis on which the decision was made and include the grade reported for the student, the evaluation criteria for the course, and the performance scores and attendance data achieved by the student in that course. The decision is transmitted to the student through the complaints officer with whom the complaint was initially filed.

(e) Ordinarily, the above process of review should be sufficient, but if the student feels there were extenuating circumstances, a conference may be requested with the division/department administrator, the course instructor and the complaints officer. The conference shall investigate the circumstances of performance in the course and determine appropriate adjustments if warranted.

(f) Since the evaluation of the extent of course mastery is exclusively within the province of the instructor for a particular course, any adjustments or grade changes may be initiated only by that instructor or, under proven extenuating circumstances, by the appropriate dean of instruction, upon approval by the president.

**WSR 89-08-070**

**PROPOSED RULES**

**HORSE RACING COMMISSION**

[Filed April 4, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning:

Amd WAC 260-36-020 Licenses required of jockeys, apprentices, owners, trainers.

Amd WAC 260-36-030 Veterinarians, platers, dentists—License required—Ineligible as trainers.  
 Amd WAC 260-36-040 Registration of personnel other than owners, trainers and jockeys—Fee;

that the agency will at 1:00 p.m., Tuesday, May 9, 1989, in the Sea-Tac Red Lion, 18740 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

Dated: April 4, 1989  
 By: John Crowley  
 Executive Secretary

### STATEMENT OF PURPOSE

In the matter of adopting the amendments to WAC 260-36-020, 260-36-030 and 260-36-040.

WAC 260-36-020, 260-36-030 and 260-36-040 are proposed for adoption as amended and set out in the notice of intention to adopt rules filed this date with the code reviser. The title of these rules is Occupational permits and licenses.

**Description of Purpose:** The primary purpose of and reason for the adoption of the amendments to these rules is [to] provide for a more convenient and accurate means for collecting license fees from the various licensee[s] of the Washington Horse Racing Commission.

**Statutory Authority:** RCW 67.16.020 and 67.16.040.

These rules are being promulgated under the general rule-making authority of the Washington Horse Racing Commission.

**Summary of the Authority:** The rules being submitted set out the fee amounts to be paid by the various licensees of the Washington Horse Racing Commission. These rules set out the time periods during which a license is valid and in effect per the fee paid.

**Reasons Supporting the Proposed Action:** This proposed action should be support[ed] because it allows for more accurate recordkeeping by the Washington Horse Racing Commission regarding the status of licensees.

John Crowley, executive secretary of the commission, and members of his staff are responsible for the drafting, implementation and enforcement of these proposed amendments to the rules of this chapter.

The Washington Horse Racing Commission, per its Chairperson Warren Chinn, is the proponent of the enactment of these amendments to these rules, and recommends adoption of these rules.

These rules have been drafted in consultation with the various parties, and with the assistance of the attorney general and his assistant, William Garling, Jr.

The enactment of these rules is not necessary as the result of action by the legislature or by any court action, federal or state.

This certifies that copies of the statement are on file with the Horse Racing Commission, are available for public inspection, and that three copies of the statement are this date being forwarded to the Secretary of the

Senate and to the Chief Clerk of the House of Representatives.

**Small Business Economic Impact Statement:** The enactments listed above are not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

#### AMENDATORY SECTION (Amending Order 86-02, filed 4/21/86)

WAC 260-36-020 LICENSES REQUIRED OF JOCKEYS, APPRENTICES, OWNERS, TRAINERS. All jockeys and apprentice jockeys must first secure occupational license before accepting a mount; no trial ride will be permitted without such occupational license, except as provided in WAC 260-32-020(1). Each owner and trainer must secure occupational license before entering a horse and the racing secretary shall be required to secure such occupational license number of owner and trainer making such entry. The license fee for jockeys, apprentices, owners, and trainers shall be for ~~((three))~~ one year~~((s))~~ and shall be ~~(((\$45.00))~~ \$15.00.

#### AMENDATORY SECTION (Amending Order 86-02, filed 4/21/86)

WAC 260-36-030 VETERINARIANS, PLATERS, AND DENTISTS—LICENSE REQUIRED—INELIGIBLE AS TRAINERS. The license fee for veterinarians, platers and dentists shall be for ~~((three))~~ one year~~((s))~~ and shall be ~~(((\$45.00))~~ \$15.00. They must be approved by the commission before practicing their professions on the grounds of an association. They shall not be eligible to hold a license to train horses while holding said occupational license.

#### AMENDATORY SECTION (Amending Resolution No. 87-02, filed 7/8/87)

WAC 260-36-040 REGISTRATION OF PERSONNEL OTHER THAN OWNERS, TRAINERS AND JOCKEYS—FEE. (1) Any person acting in an official capacity or any person employed on a race track ~~((other than a groom or concession employee))~~ shall be licensed by the Washington horse racing commission for ~~((three))~~ one year~~((s))~~ and the fee shall be ~~(((\$45.00))~~ \$5.00.

~~((2))~~ ~~((All grooms and concession employees shall be licensed by the Washington horse racing commission for one year and the fee shall be \$5.00.~~

~~((3))~~ ~~((Any person who serves as a volunteer and is not an owner, trainer, or jockey shall be licensed by the Washington horse racing commission for one year and the fee shall be \$5.00.~~

~~((4))~~ All employees of the Washington horse racing commission shall be exempt from any license fees but shall be issued a photo identification badge which shall be displayed in the same manner as all other licensees while in the performance of their duties at the track.

### WSR 89-08-071

#### ATTORNEY GENERAL OPINION

Cite as: AGO 1989 No. 7

[March 31, 1989]

#### SUPERINTENDENT OF PUBLIC INSTRUCTION—RULES AND REGULATIONS—SCHOOLS—CERTIFICATED EMPLOYEES—CREDIT FOR IN-SERVICE TRAINING

WAC 392-121-260 (3)(c) as adopted by the Superintendent of Public Instruction is invalid as inconsistent with state statute to the extent that it purports to allow permanent credit for in-service training in a manner inconsistent with the state-wide salary allocation schedule adopted by the Legislature for common-school certified employees.

## Requested by:

Honorable Len McComb  
Acting Director  
Office of Financial Management  
Insurance Building, AQ-44  
Olympia, WA 98504

**WSR 89-08-072**

**NOTICE OF PUBLIC MEETINGS  
OFFICE OF MINORITY AND  
WOMEN'S BUSINESS ENTERPRISES**

[Memorandum—March 29, 1989]

You are invited to attend an informational meeting with representatives of the Offices of the Governor and Attorney General and our office regarding the recent United States Supreme Court decision, (*Richmond v. Croson*). The meetings are scheduled to be held on Monday, April 10, 1989, in Yakima and Wednesday, April 12, 1989, in Seattle beginning at 7 p.m.

The purpose of these meetings is to discuss the Richmond decision and its impact as well as the state's direction in ensuring the legality of our program.

I strongly encourage your attendance as it will facilitate a better understanding of the importance of your role in the reassessment of our current minority and women business enterprise program.

The meetings are scheduled at the following locations:

- |                |   |
|----------------|---|
| April 10, 1989 | Yakima Indian National Heritage Center<br>Cultural Heritage Center/Restaurant<br>One mile north of Toppenish on Highway 97<br>Toppenish, Washington |
| April 12, 1989 | Washington Institute of Applied Technology<br>315 22nd Avenue South, Room 625<br>Seattle, Washington<br>(use the north entrance of the first floor) |

If you have any questions or wish further clarification prior to our meeting, please feel free to call our office at (206) 753-9693.

**WSR 89-08-073**

**EMERGENCY RULES  
DEPARTMENT OF FISHERIES**

[Order 89-16—Filed April 4, 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 harvestable numbers of spring chinook are projected to return to these rivers. These rules allow

the recreational fishery an opportunity to catch these fish. 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 April 4, 1989.

By Judith Merchant  
for Joseph R. Blum  
Director

NEW SECTION

**WAC 220-57-31500M KLICKITAT RIVER.** Notwithstanding the provisions of WAC 220-57-315, effective April 6 through May 28, 1989, two fish bag limit four days per week, Thursday through Sunday only, from the mouth of the Klickitat River upstream to Fisher Hill Bridge and from a point 400 feet above the number 5 fishway to the mouth of the Little Klickitat River.

NEW SECTION

**WAC 220-57-50500P LITTLE WHITE SALMON RIVER (DRANO LAKE).** Notwithstanding the provisions of WAC 220-57-505, effective April 6 through May 7, 1989, two fish bag limit four days per week, Thursday through Sunday only, downstream of Washington Department of Fisheries boundary markers placed on points of land downstream and across from the federal salmon hatchery and upstream of the Highway 14 Bridge.

NEW SECTION

**WAC 220-57-51500D WIND RIVER.** Notwithstanding the provisions of WAC 220-57-515, effective April 6 through May 31, 1989, two fish bag limit downstream from markers 400 feet below Shipperd Falls to markers at the outer land points downstream from the Burlington Northern Railroad Bridge at the mouth of the Wind River.

**WSR 89-08-074**

**EMERGENCY RULES  
DEPARTMENT OF FISHERIES**

[Order 89-17—Filed April 4, 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 these regulations are necessary until permanent regulations, adopted March 3, 1989, can take effect.

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 April 4, 1989.

By Judith Freeman  
for Joseph R. Blum  
Director

#### NEW SECTION

**WAC 220-56-13300A DES MOINES PUBLIC FISHING PIER.** Effective immediately 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.

#### NEW SECTION

**WAC 220-56-18000B BAG LIMIT CODES.** Notwithstanding the provisions of WAC 220-56-180, effective immediately:

(1) During the period April 16 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the 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.

(2) 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.

(3) 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 16 through June 15 in Catch Record Card Areas 5, 6, and 7, 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.

(4) 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.

(5) 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 for gamefish as regulated under Title 77 RCW by the Washington Wildlife Commission.

#### NEW SECTION

**WAC 220-56-19000J SALTWATER SEASONS AND BAG LIMITS—SALMON.** Notwithstanding the provisions of WAS 220-56-190, effective immediately 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 220-56-18000B:

(1) Puget Sound

(a) Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9 and 12 - Bag Limit H - open the entire year.

(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 220-56-128, 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 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 - 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 - August 16 through January 31: Waters of the 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) Bag Limit A - August 16 through January 31.

**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 220-56-23500E POSSESSION LIMITS—BOTTOMFISH.** Notwithstanding the provisions of WAC 220-56-235, effective immediately 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 possess in a frozen or processed form.

(1) 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 (8-1 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.

NEW SECTION

**WAC 220-56-24000E BAG LIMITS—OTHER FOOD FISH.** Notwithstanding the provisions of WAC 220-56-240, effective immediately it is unlawful for any one person to take in any 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) 1 fish not less than 48 inches nor more than 66 inches in length in 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 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) 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 downstream from a line perpendicular to the river flow where the river becomes the Oregon/Washington boundary approximately 17.3 miles above McNary Dam.

(d) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(e) There is an annual personal use bag limit of 15 sturgeon.

NEW SECTION

**WAC 220-56-28200A 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.

NEW SECTION

**WAC 220-56-31000I SHELLFISH—DAILY BAG LIMITS.** Notwithstanding the provisions of WAC 220-56-310, effective immediately the statewide daily bag limit for hardshell clams is 40 clams in the aggregate, or 10 pounds, whichever is achieved first.

NEW SECTION

**WAC 220-56-32000B SHELLFISH GEAR—UNLAWFUL ACTS.** Notwithstanding the provisions of WAC 220-56-320, effective immediately:

(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, and name and address must appear exactly as it occurs on the recreational license form.

(2) 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 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 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.

NEW SECTION

**WAC 220-56-35000E HARDSHELL CLAMS, COCKLES, MUSSELS—AREAS AND SEASONS.** Notwithstanding the provisions of WAC 220-56-350, effective immediately the following area is regulated as indicated for the taking of hardshell clams during the times indicated:

(1) Kayak Point County Park – All county owned tidelands at Kayak Point County Park are closed except county tidelands north of the county fishing pier are open January 1 to June 15 of even numbered years and county tidelands south of the pier are open January 1 to June 15 of odd numbered years.

NEW SECTION

**WAC 220-56-35500B CLAMS—UNLAWFUL ACTS.** Notwithstanding the provisions of WAC 220-56-355, effective immediately:

(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) 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.

**WSR 89-08-075**  
**PROPOSED RULES**  
**DEPARTMENT OF LABOR AND INDUSTRIES**  
[Filed April 5, 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:

- Amd WAC 296-104-050 Administration—Examination for inspector.
- Amd WAC 296-104-260 Inspection of systems—Clearance at top of boilers.
- Rep WAC 296-104-315 New installations—Blow off tanks;

that the agency will at 10:00 a.m., Tuesday, May 16, 1989, in the Building and Construction Safety Inspection Services Conference Room, 805 Plum Street S.E., Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 15, 1989.

The authority under which these rules are proposed is RCW 70.79.040.

The specific statute these rules are intended to implement is chapter 70.79 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 16, 1989.

Dated: April 5, 1989  
By: Joseph A. Dear  
Director

**STATEMENT OF PURPOSE**

Title and Number of Rule: Chapter 296-104 WAC, Board of Boiler Rules substantive—Definitions, rules, regulations and policies includes WAC 296-104-050 Administration—Examination for inspector; 296-104-260 Inspection of systems—Clearance at front, back and sides; and 296-104-315 New installations—Blow off tanks.

Statutory Authority: RCW 70.79.040.

Specific Statutes that Rules are Intended to Implement: Chapter 70.79 RCW.

Summary of the Rule: WAC 296-104-050 will allow engineers with degrees in disciplines other than mechanical to use their educational experience to qualify to sit for the Boiler Inspector National Board examination; WAC 296-104-260 will allow use of manufacturer's suggested clearances for small boilers instead of arbitrary clearance specified in present language; and WAC 296-104-315 will eliminate rejection of tanks built to ASME code requirements, but not to the national board standard.

Reasons Supporting the Proposed Rule: To comply with actions taken by the Board of Boiler Rules.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: George E. Black, Chief Boiler Inspector, 805 Plum Street S.E., P.O. Box 9004, Olympia, WA 98504-9689, phone (206) 586-0217 and Bob Reid, Chairman, Board of Boiler Rules, 910 Tenth Street, Bellingham, WA 98225, (206) 734-6650.

Name of the Person or Organization, Whether Private, Public, or Governmental that is Proposing the Rules: The Board of Boiler Rules, Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, and Fiscal Matters Pertaining to the Rules: None.

The rules are necessary to comply with actions taken by the Board of Boiler Rules.

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.

AMENDATORY SECTION (Amending Order 78-3, filed 2/22/78)

WAC 296-104-050 ADMINISTRATION—EXAMINATION FOR INSPECTOR. Examination for certificate of competency as inspector of boilers shall be held at the office of the chief boiler inspector for the state of Washington, or at any location to be selected by the board, four times each year, namely, the first Wednesday of the months of March, June, September and December. Special examinations will be held when considered necessary by the board.

Applicants for examination shall have had at least three years practical experience in the construction, maintenance, repair or operation of high pressure boilers or unfired pressure vessels as a mechanical engineer, steam engineer or boiler maker, or shall have had at least three years experience as an inspector of high pressure boilers. A credit of two years of the required experience will be given to applicants holding ~~((a mechanical))~~ an engineering degree from a recognized college of engineering.

Application for examination for certificate of competency shall be in writing upon a form to be furnished by the director stating the school education of the applicant, a list of his employers, his period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected. If the applicant's history and experience meet with the approval of the board of boiler rules, he shall be given a written examination dealing with the construction, installation, operation, maintenance and repair of boilers and unfired pressure vessels and their appurtenance, and the applicant shall be accepted or rejected on the merits of this examination. If the applicant is successful in meeting the requirements of the examining board, a certificate of competency will be issued by the chief inspector. After the expiration of ninety days, an applicant who fails to pass the examination will be permitted to take another written examination, and his acceptance or rejection will be determined by the board on the basis of this examination.

AMENDATORY SECTION (Amending Part IV, filed 3/23/60)

WAC 296-104-260 INSPECTION OF SYSTEMS—CLEARANCE ~~((AFF))~~ FRONT, BACK AND SIDES. When boilers are replaced or new boilers installed in either existing or new buildings, minimum clearance ~~((and ventilation))~~ shall be provided as specified below:

(1) Minimum clearance at sides and back ~~((between boiler casing and boiler room wall: 1 1/2 feet))~~ wall shall be one and one-half feet or at the discretion of the inspector the manufacturers recommended clearances may be used if they allow sufficient room for inspection. Boilers having manholes shall have five feet clearance from the manhole opening and any wall, ceiling, or piping that will prevent a person from entering the boiler.

(2) Clearance in front and back shall be sufficient for operation, maintenance, and repair.

~~((3) Permanent means of ventilation shall be required proportionate to the requirements of the fires and room temperature.))~~

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-104-315 NEW INSTALLATIONS—BLOW OFF TANKS.

**WSR 89-08-076****NOTICE OF PUBLIC MEETINGS****DEPARTMENT OF NATURAL RESOURCES**

[Memorandum—April 4, 1989]

**CYPRESS ISLAND NATURAL RESOURCES CONSERVATION AREA ACQUISITION**

**WHEN:** May 17, 1989, 7:00 p.m.

**WHERE:** Anacortes Community Center  
6th and Q Avenue  
Anacortes, Washington

**PURPOSE:** Receive public testimony on boundary establishment and future acquisition of available parcels on Cypress Island for a Natural Resources Conservation Area in Skagit County.

Written statements must be received by 4:00 p.m., May 24, 1989. Send comments to: Department of Natural Resources, Land and Water Conservation, Mailstop EG-11, Olympia, Washington 98504.

**WSR 89-08-077****NOTICE OF PUBLIC MEETINGS****DEPARTMENT OF NATURAL RESOURCES**

[Memorandum—April 4, 1989]

**MT. SI NATURAL RESOURCES CONSERVATION AREA ACQUISITION**

**WHEN:** May 24, 1989, 7:00 p.m.

**WHERE:** Snoqualmie Middle School Commons  
39500 Snoqualmie-North Bend Road  
Snoqualmie, WA

**PURPOSE:** Receive public testimony on the acquisition and future use of the Mt. Si Conservation Area including the west face of Little Si, in eastern King County.

Written statements must be received by 4:00 p.m., May 31, 1989. Send comments to: Department of Natural Resources, Land and Water Conservation, Mailstop EG-11, Olympia, Washington 98504.

**WSR 89-08-078****PROPOSED RULES****DEPARTMENT OF ECOLOGY**

[Filed April 5, 1989]

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

- Amd WAC 173-802-050 Designation of responsible official—SEPA.  
Amd WAC 173-06-030 Delegation of powers.

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 chapter 43.21A 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: April 5, 1989

By: Christine Gregoire  
Director

**STATEMENT OF PURPOSE**

**Titles and Chapters:** State Environmental Policy Act—Designation of responsible official, chapter 173-802 WAC; and Delegation of powers, chapter 173-06 WAC.

**Description of Purpose:** The department has just completed a major reorganization both at headquarters and the regional offices. The proposed amendments reflect the changes in delegated signature authority necessitated by the reorganization.

**Statutory Authority:** Chapter 43.21A RCW.

**Specific Statute Rules are Intended to Implement:** Not applicable.

**Summary of Rule:** Chapter 173-802 WAC relates to the Department of Ecology's procedural responsibilities under the State Environmental Policy Act. The amendment proposed here clarifies who within the department is responsible for State Environmental Policy Act issues; and chapter 173-06 WAC relates to authorities which are delegated to certain employees within the Department of Ecology. The amendment proposed here reflects changes with regard to who within the department has signature authority to issue orders, directives or decisions.

**Reasons Supporting the Proposed Action:** The proposed amendments will result in the subject WAC's being consistent with the newly adopted reorganization which has occurred within the agency. These proposed changes are basically "housekeeping" matters which will have no substantive impact on the agency's clientele.

**Agency Personnel Responsible for Drafting, Implementing and Enforcement of the Rule:** Steve Hunter, Assistant Director, mailstop PV-11, Olympia, Washington 98504, (206) 459-6012.

**Name of Organization Proposing the Amendment:** Washington State Department of Ecology.

**Rule Amendment Necessary as a Result of Federal Law or Federal or State Court Action:** No.

**Small Business Economic Impact Statement:** No impact.

**AMENDATORY SECTION** (Amending Order 85-25, filed 11/26/85)

WAC 173-06-030 DELEGATION. The authority delegated hereby includes the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The authority delegated is limited to the power to act for the department in carrying out functions within the power of the department. No delegation made shall be effective or within the authority of any particular person to exercise unless that person has been issued a specific letter of authorization from the director authorizing him or her to act for the department in the specifics set forth in such letter. Subject to the foregoing restriction, the following delegations are made:

(1) To the deputy directors, assistant directors, ~~((regional managers)), regional directors, division supervisors, section supervisors and program managers~~(([,])) the authority to:

- (a) ~~((Issue orders relating to emergency episodes;~~
  - (b) ~~Issue regulatory notices and orders;~~
  - (c) ~~Impose civil penalties;~~
  - (d) ~~Perform departmental functions relating to grants, gifts, loans, bonds, fees and special funds;~~
  - (e) ~~Enter into contracts and appoint personnel;~~
  - (f) ~~Initiate requests for requests for review before shorelines hearings board;~~
  - (g) ~~Issue determinations relating to tax credits or exemptions for pollution control facilities;~~
  - (h) ~~Perform departmental functions relating to adjudication of water rights[;]~~
  - (i) ~~Issue licenses, permits, variances, certificates, and certifications;~~
  - (j) ~~Approve, modify or deny proposals, and plans and specifications required to be submitted to the department.))~~
- ~~(a) Act on behalf of the department in the administration of programs and all other duties assigned the department;~~

~~((2)) To the deputy directors, assistant directors, regional managers, division supervisors, and program managers (and section heads,) the authority to)~~

(b) approve, ~~((modify))~~ or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department, provided that a registered professional engineer employed by the department shall ~~((provide an evaluation and recommendations on such approvals, modifications or denials))~~ have furnished engineering services in accordance with 18.43 RCW Engineers and Land Surveyors.

[(2)] Under special circumstances the Director may determine it appropriate to delegate specific signature authority to any professional agency staff.

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

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**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 [DE] 84-21, filed 6/15/84)

WAC 173-802-050 DESIGNATION OF RESPONSIBLE OFFICIAL. Within the Department of Ecology, the ultimate responsible official is the director. The responsible official for a specific proposal shall be ~~((a supervisor of a regional office branch or a division supervisor.))~~ the person who has been delegated signature authority per WAC 173-06-030, unless more than one ~~((division or regional office branch is involved))~~ person has such authority in a proposal; if so, the responsible official shall be either the next higher supervisor common to all involved ~~((divisions))~~ persons, or any senior professional staff designated by the deputy director. ~~((When two or more offices are involved, or an office and a division supervised by a special assistant are involved, the deputy director shall designate the responsible official.))~~

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 89-08-079**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 89-13—Filed April 5, 1989]

I, Christine O. Gregoire, director of the Department of Ecology, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd ch. 173-06 WAC Delegation of powers.
- Amd ch. 173-802 WAC Designation of responsible official—SEPA.

I, Christine O. Gregoire, 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 Department of Ecology has just completed a major reorganization. The verbiage changes are essential for the agency to function until the final rules are adopted and in effect.

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 the Department of Ecology as authorized in chapter 43.21A RCW.

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

APPROVED AND ADOPTED April 5, 1989.  
By Christine Gregoire  
Director

AMENDATORY SECTION (Amending Order 85-25, filed 11/26/85)

WAC 173-06-030 DELEGATION. The authority delegated hereby includes the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The authority delegated is limited to the power to act for the department in carrying out functions within the power of the department. No delegation made shall be effective or within the authority of any particular person to exercise unless that person has been issued a specific letter of authorization from the director authorizing him or her to act for the department in the specifics set forth in such letter. Subject to the foregoing restriction, the following delegations are made:

(1) To the deputy directors, assistant directors, ~~((regional managers)), regional directors, division supervisors, section supervisors and program managers~~(([,])) the authority to:

- (a) ~~((Issue orders relating to emergency episodes;~~
- (b) ~~Issue regulatory notices and orders;~~
- (c) ~~Impose civil penalties;~~
- (d) ~~Perform departmental functions relating to grants, gifts, loans, bonds, fees and special funds;~~
- (e) ~~Enter into contracts and appoint personnel;~~
- (f) ~~Initiate requests for requests for review before shorelines hearings board;~~
- (g) ~~Issue determinations relating to tax credits or exemptions for pollution control facilities;~~
- (h) ~~Perform departmental functions relating to adjudication of water rights[;]~~
- (i) ~~Issue licenses, permits, variances, certificates, and certifications;~~



~~(j) Approve, modify or deny proposals, and plans and specifications required to be submitted to the department.)~~

~~(a) Act on behalf of the department in the administration of programs and all other duties assigned the department;~~

~~((2)) To the deputy directors, assistant directors, regional managers, division supervisors, and program managers ((and section heads.)) the authority to)~~

~~(b) approve, ((modify)) or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department, provided that a registered professional engineer employed by the department shall ((provide an evaluation and recommendations on such approvals, modifications or denials)) have furnished engineering services in accordance with 18.43 RCW Engineers and Land Surveyors.~~

~~[(2)] Under special circumstances the Director may determine it appropriate to delegate specific signature authority to any professional agency staff.~~

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

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

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 [DE] 84-21, filed 6/15/84)

WAC 173-802-050 DESIGNATION OF RESPONSIBLE OFFICIAL. Within the Department of Ecology, the ultimate responsible official is the director. The responsible official for a specific proposal shall be ((a supervisor of a regional office branch or a division supervisor.)) the person who has been delegated signature authority per WAC 173-06-030, unless more than one ((division or regional office branch is involved)) person has such authority in a proposal; if so, the responsible official shall be either the next higher supervisor common to all involved ((divisions)) persons, or any senior professional staff designated by the deputy director. ((When two or more offices are involved, or an office and a division supervised by a special assistant are involved, the deputy director shall designate the responsible official.))

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 89-08-080**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning local application of state requirements, WAC 180-51-025;

that the agency will at 9:00 a.m., Thursday, May 18, 1989, in the Boardroom, Bellingham School District No. 501, 1306 Dupont Street, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 19, 1989.

The authority under which these rules are proposed is RCW 28A.05.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 18, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-05-060 filed with the code reviser's office on February 15, 1989.

Dated: April 5, 1989

By: Monica Schimdt  
Secretary

**WSR 89-08-081**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning limited certificates, WAC 180-79-230;

that the agency will at 9:00 a.m., Thursday, May 18, 1989, in the Boardroom, Bellingham School District No. 501, 1306 Dupont Street, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 19, 1989.

The authority under which these rules are proposed is RCW 28A.70.005 and 28A.04.120(3).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 18, 1989.

Dated: April 5, 1989

By: Monica Schimdt  
Secretary

**STATEMENT OF PURPOSE**

Rule: Chapter 180-79 WAC.

Rule Section(s): WAC 180-79-230.

Statutory Authority: RCW 28A.70.005 and 28A.04.120(3).

Purpose of the Rule(s): To maintain practices currently used regarding issuance of limited certificates.

Summary of the New Rule(s) and/or Amendments: Corrects omission from prior amendment regarding issuance of limited certificates.

Reasons Which Support the Proposed Action(s): Prevents disruption of existing programs.

Section Analysis: WAC 180-79-230 clarifies requirements for limited certificates.

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 3-2298; Implementation and Enforcement: Doyle Winter, SPI, 3-1880.

Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): None.

**AMENDATORY SECTION** (Amending Order 3-88, filed 2/17/88)

WAC 180-79-230 LIMITED CERTIFICATES. Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited periods of service:

(1) Consultant special certificate.

(a) The issuance of consultant special certificates is limited to:

(i) Persons highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools;

(ii) Persons who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3);

(iii) Persons who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program.

(b) Such certificates are issued to individuals who are screened by the local school district or educational service district superintendents. The educational service district or local district superintendent will verify that the following criteria have been met when requesting the consultant special certificate:

(i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities and will not be serving in a paraprofessional role which would not require certification;

(iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field;

(iv) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority, and the duration of the assignment; and

(v) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment and will verify that general requirements for certification as set forth in WAC 180-75-085 (1) and (2) have been met.

(c) The certificate is valid for one year and only for the activity specified. The certificate may be reissued on application and evidence that requirements continue to be met: PROVIDED, That the superintendent of public instruction may extend the validity of the certificate for more than one year but no more than four years.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of Washington certificates have expired, or

(ii) Persons who have completed state approved preparation programs at regionally accredited colleges and universities for certificates.

(b) The substitute certificate is valid for life:

(c) PROVIDED, That if the district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may

issue emergency substitute certificates to persons not fully qualified under this subsection for use in a particular school district once the list of otherwise qualified substitutes has been exhausted. Such emergency substitute certificates shall be valid for three years.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: PROVIDED, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate.

(b) The emergency certificate is valid for one year.

(4) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 392-193-055(1) and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(5) Nonimmigrant alien foreign language teacher. Applicants for certification as a nonimmigrant alien foreign language teacher must qualify pursuant to WAC 392-193-055(2) and possess a baccalaureate degree or establish equivalency to a baccalaureate degree by having his or her college or university transcripts evaluated as equivalent by any accredited college or university within the state of Washington.

**WSR 89-08-082**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning General requirements—Teachers, administrators, educational staff associates, WAC 180-75-085;

that the agency will at 9:00 a.m., Thursday, May 18, 1989, in the Boardroom, Bellingham School District No. 501, 1306 Dupont Street, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 19, 1989.

The authority under which these rules are proposed is RCW 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 18, 1989.

Dated: April 5, 1989

By: Monica Schmidt  
Secretary

**STATEMENT OF PURPOSE**

Rule: Chapter 180-75 WAC.

Rule Section(s): WAC 180-75-085.

Statutory Authority: RCW 28A.70.005.

Purpose of the Rule(s): To maintain practices currently used regarding issuance of limited certificates.

Summary of the New Rule(s) and/or Amendments: Corrects omission from prior amendment regarding issuance of limited certificates.

Reasons Which Support the Proposed Action(s): Prevents disruption of existing programs.

Section Analysis: WAC 180-75-085 clarifies general requirements for issuance of limited certificates.

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 3-2298; Implementation and Enforcement: Doyle Winter, SPI, 3-1880.

Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): None.

AMENDATORY SECTION (Amending Order 14-88, filed 6/6/88)

WAC 180-75-085 GENERAL REQUIREMENTS—TEACHERS, ADMINISTRATORS, EDUCATIONAL STAFF ASSOCIATES. The following requirements are to be met by candidates for certification as teachers, administrators, or educational staff associates:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state who are not holders of a valid Washington state teacher's, administrator's, educational staff associate's, or vocational certificate must give evidence of good moral character and personal fitness as specified in WAC 180-75-082 and must make arrangements with the Washington state patrol for a background check as required by RCW 28A.70.005: PROVIDED, That applicants for vocational teaching certificates who do not make such an arrangement with the state patrol shall have placed on such certificates by the superintendent of public instruction a provision which restricts the certificate holder to the teaching of vocational technical institute students who are sixteen years of age or older.

(3) Academic. A candidate for certification shall have successfully completed an approved professional preparation program within the state of Washington and hold appropriate degrees, licenses, and additional course work as prescribed in chapter 180-79 WAC or have qualified under WAC 180-79-245.

(4) Program completion. A candidate for an initial or continuing certificate shall provide verification that he or she has completed an approved professional preparation program.

Subsections (3) and (4) of this section shall not apply to vocational or limited certificates. Vocational certificates are issued under academic and experience requirements set forth in chapter 180-77 WAC. Limited certificates are issued pursuant to WAC 180-79-230.

**WSR 89-08-083**  
EMERGENCY RULES  
**STATE BOARD OF EDUCATION**  
[Order 4-89—Filed April 5, 1989]

Be it resolved by the State Board of Education, acting at the Library, Conference Room #1, Educational Service District No. 121, 12320 80th Avenue South, Seattle, that it does adopt the annexed rules relating to limited certificates, WAC 180-79-230.

We, the State Board of Education, 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 emergency adoption of the proposed amendments to WAC 180-79-230 is necessary in order to maintain the existing policy and not disrupt ongoing programs.

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

This rule is promulgated pursuant to RCW 28A.70-.005 and 28A.04.120(3) 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 31, 1989.

By Monica Schmidt  
Secretary

AMENDATORY SECTION (Amending Order 3-88, filed 2/17/88)

WAC 180-79-230 LIMITED CERTIFICATES. Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited periods of service:

(1) Consultant special certificate.

(a) The issuance of consultant special certificates is limited to:

(i) Persons highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools;

(ii) Persons who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3);

(iii) Persons who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program.

(b) Such certificates are issued to individuals who are screened by the local school district or educational service district superintendents. The educational service district or local district superintendent will verify that the following criteria have been met when requesting the consultant special certificate:

(i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities and will not be serving in a paraprofessional role which would not require certification;

(iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field;

(iv) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority, and the duration of the assignment; and

(v) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment and will verify that general requirements for certification as set forth in WAC 180-75-085 (1) and (2) have been met.

(c) The certificate is valid for one year and only for the activity specified. The certificate may be reissued on application and evidence that requirements continue to

be met: *PROVIDED*, That the superintendent of public instruction may extend the validity of the certificate for more than one year but no more than four years.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certified staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of Washington certificates have expired, or

(ii) Persons who have completed state approved preparation programs at regionally accredited colleges and universities for certificates.

(b) The substitute certificate is valid for life:

(c) *PROVIDED*, That if the district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under this subsection for use in a particular school district once the list of otherwise qualified substitutes has been exhausted. Such emergency substitute certificates shall be valid for three years.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: *PROVIDED*, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate.

(b) The emergency certificate is valid for one year.

(4) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 392-193-055(1) and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(5) Nonimmigrant alien foreign language teacher. Applicants for certification as a nonimmigrant alien foreign language teacher must qualify pursuant to WAC 392-193-055(2) and possess a baccalaureate degree or establish equivalency to a baccalaureate degree by having his or her college or university transcripts evaluated as equivalent by any accredited college or university within the state of Washington.

**WSR 89-08-084**  
**EMERGENCY RULES**  
**STATE BOARD OF EDUCATION**

[Order 5-89—Filed April 5, 1989]

Be it resolved by the State Board of Education, acting at the Library, Conference Room #1, Educational Service District No. 121, 12320 80th Avenue South, Seattle, that it does adopt the annexed rules relating to

General requirements—Teachers, administrators, educational staff associates, WAC 180-75-085.

We, the State Board of Education, 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 emergency adoption of the proposed amendments to WAC 180-75-085 is necessary in order to maintain the existing policy and not disrupt ongoing programs.

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

This rule is promulgated pursuant to RCW 28A.70.005 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 31, 1989.

By Monica Schmidt  
Secretary

AMENDATORY SECTION (Amending Order 14-88, filed 6/6/88)

WAC 180-75-085 GENERAL REQUIREMENTS—TEACHERS, ADMINISTRATORS, EDUCATIONAL STAFF ASSOCIATES. The following requirements are to be met by candidates for certification as teachers, administrators, or educational staff associates:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state who are not holders of a valid Washington state teacher's, administrator's, educational staff associate's, or vocational certificate must give evidence of good moral character and personal fitness as specified in WAC 180-75-082 and must make arrangements with the Washington state patrol for a background check as required by RCW 28A.70.005: *PROVIDED*, That applicants for vocational teaching certificates who do not make such an arrangement with the state patrol shall have placed on such certificates by the superintendent of public instruction a provision which restricts the certificate holder to the teaching of vocational technical institute students who are sixteen years of age or older.

(3) Academic. A candidate for certification shall have successfully completed an approved professional preparation program within the state of Washington and hold appropriate degrees, licenses, and additional course work as prescribed in chapter 180-79 WAC or have qualified under WAC 180-79-245.

(4) Program completion. A candidate for an initial or continuing certificate shall provide verification that he or

she has completed an approved professional preparation program.

Subsections (3) and (4) of this section shall not apply to vocational or limited certificates. Vocational certificates are issued under academic and experience requirements set forth in chapter 180-77 WAC. Limited certificates are issued pursuant to WAC 180-79-230.

**WSR 89-08-085**

**ADOPTED RULES**

**STATE BOARD OF EDUCATION**

[Order 6-89—Filed April 5, 1989]

Be it resolved by the State Board of Education, acting at the Library, Conference Room #1, Educational Service District No. 121, 12320 80th Avenue South, Seattle, that it does adopt the annexed rules relating to preliminary funding status of certain projects, WAC 180-26-055.

This action is taken pursuant to Notice No. WSR 89-05-065 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 28A.47-.060, 28A.47.802 and 28A.47.830 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 31, 1989.

By Monica Schmidt  
Secretary

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-26-055 PRELIMINARY FUNDING STATUS TO CERTAIN PROJECTS. Notwithstanding the provisions of WAC 180-26-050, ~~((the following))~~ all projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985, shall be granted preliminary funding status by the superintendent of public instruction ~~((thirty days after the effective date of this section:))~~

~~(1) All projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985.~~

~~(2) All projects with a priority one or two status pursuant to WAC 180-27-058).~~

**WSR 89-08-086**

**ADOPTED RULES**

**STATE BOARD OF EDUCATION**

[Order 7-89—Filed April 5, 1989]

Be it resolved by the State Board of Education, acting at the Library, Conference Room #1, Educational Service District No. 121, 12320 80th Avenue South, Seattle, that it does adopt the annexed rules relating to project approval moratorium, WAC 180-25-300.

This action is taken pursuant to Notice No. WSR 89-05-066 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 28A.47-.060, 28A.47.802 and 28A.47.830 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 31, 1989.

By Monica Schmidt  
Secretary

NEW SECTION

WAC 180-25-300 PROJECT APPROVAL MORATORIUM. Notwithstanding any provision of this chapter to the contrary, the state board of education hereby imposes a moratorium upon granting any project approval pursuant to WAC 180-25-040, 180-25-045, 180-29-025, and 180-29-030.

**WSR 89-08-087**

**ADOPTED RULES**

**STATE BOARD OF EDUCATION**

[Order 8-89—Filed April 5, 1989]

Be it resolved by the State Board of Education, acting at the Library, Conference Room #1, Educational Service District No. 121, 12320 80th Avenue South, Seattle, that it does adopt the annexed rules relating to project approval moratorium, WAC 180-29-300.

This action is taken pursuant to Notice No. WSR 89-05-067 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 28A.47-.060, 28A.47.802 and 28A.47.830 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 31, 1989.

By Monica Schmidt  
Secretary

### NEW SECTION

WAC 180-29-300 PROJECT APPROVAL MORATORIUM. Notwithstanding any provision of this chapter to the contrary, the state board of education hereby imposes a moratorium upon granting any project approval pursuant to WAC 180-25-040, 180-25-045, 180-29-025, and 180-29-030.

**WSR 89-08-088**  
**NOTICE OF PUBLIC MEETINGS**  
**FOREST PRACTICES BOARD**  
[Memorandum—April 5, 1989]

The Washington Forest Practices Board will hold its regular quarterly meeting on May 10, 1989, at 2 p.m. at the Bonneville Power Administration Auditorium, Ross Complex, 5411 N.E. Highway 99, Vancouver, WA.

Additional information may be obtained from the Division of Forest Regulation and Assistance, 1007 South Washington Street, EL-03, Olympia, WA, 98504, (206) 753-5315.

**WSR 89-08-089**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed April 5, 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 recordkeeping, new section WAC 458-20-254;

that the agency will at 9:30 a.m., Tuesday, May 9, 1989, in the Evergreen Plaza Building, Revenue Conference Room #205, 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 16, 1989.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is RCW 82.01.060, 82.32.010 and 82.32.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989  
By: Garry G. Fujita  
Assistant Director

### STATEMENT OF PURPOSE

Title: WAC 458-20-254 Recordkeeping.

Description of Purpose: To establish standards for recordkeeping providing uniformity, consistency and the

adoption of the principles of the Multistate Tax Commission recordkeeping regulation for sales and use tax purposes.

Statutory Authority: RCW 82.32.300.

Specific Statute Rule is Intended to Implement: RCW 82.01.060, 82.32.010 and 82.32.070.

Reasons Supporting Proposed Action: Technological advances in recordkeeping and storage such as microfilm, microfiche and automated data processing systems necessitates the establishment of recordkeeping standards to facilitate the efficient and effective administration of the tax laws of the state of Washington. In 1986, the Multistate Tax Commission adopted a regulation for recordkeeping in sales and use tax transactions. To provide uniformity and consistency, the principles of this regulation have been incorporated into this rule.

Agency Personnel Responsible for Drafting: Stephen P. Zagelow, 415 General Administration Building, Olympia, WA 98504, phone 586-4291; 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.

### NEW SECTION

WAC 458-20-254 RECORD KEEPING. (1) Every person liable for an excise tax imposed by the laws of the state of Washington for which the department of revenue has primary or secondary administrative responsibility, i.e., Title 82 RCW, and, chapters 67.28 RCW (hotel/motel tax), 70.93 RCW (litter tax), 70.95 RCW (tax on tires), and 84.33 RCW (forest excise tax), shall keep complete and adequate records from which the department may determine any tax for which such person may be liable.

(2) GENERAL REQUIREMENTS. (a) It is the duty of each taxpayer to prepare and preserve all books of record in a systematic manner conforming to accepted accounting methods and procedures. Records are to be kept, preserved, and presented upon request of the Department which will demonstrate:

(i) The amounts of gross receipts and sales from all sources, however derived, including barter or exchange transactions, whether or not such receipts or sales are taxable. These amounts must be supported by original source documents including but not limited to all purchase and sales invoices and contracts or such other documents as may be necessary to substantiate gross receipts and sales;

(ii) The amounts of all deductions, exemptions, or credits claimed through supporting documentation required by statute or administrative rule, or such other supporting documentation necessary to substantiate the deduction, exemption, or credit.

(b) The records kept, preserved and presented must include the normal books of account maintained by an ordinary prudent business person. Such records may include general ledgers, sales journals, cash receipts journals, check registers, and purchase journals, together with all bills, invoices, cash register tapes, or other documents of original entry supporting the books of account entries. The records shall include all federal and state tax returns and reports and all schedules or work papers used in the preparation of tax reports or returns.

(c) All such records shall be open for inspection and examination at any time by the department, upon reasonable notice, and shall be kept and preserved for a period of five years. RCW 82.32.070

(3) MICROFILM AND/OR MICROFICHE. Records may be microfilmed or microfiched, such as general books of accounts including cash books, journals, voucher registers, ledgers and like documents provided the microfilmed and/or microfiched records are authentic, accessible, and readable, and all of the following requirements are fully satisfied:

(a) Appropriate facilities are provided to preserve the films or fiche for the periods such records are required to be open to examination and to provide transcriptions of any information on film or fiche required to verify tax liability.

(b) All microfilmed or microfiched data must be indexed, cross referenced, and labeled to show beginning and ending numbers and beginning and ending alphabetical listings of all documents included.

(c) Taxpayers must make available upon request of the department, a reader/printer in good working order at the examination site for reading, locating, and reproducing any record that is maintained on microfilm or microfiche.

(d) Taxpayers must set forth in writing the procedures governing the establishment of a microfilm or microfiche system and the names of persons who are responsible for maintaining and operating the system with appropriate authorization from the Boards of Directors, general partner(s), or owner(s), whichever is applicable.

(e) The microfilm or microfiche system must be complete and must be used consistently in the regularly conducted activity of the business.

(f) Taxpayers must establish procedures with the appropriate documentation so an original document can be traced through the microfilm or microfiche system.

(g) Taxpayers must establish internal procedures for microfilm or microfiche inspection and quality assurance.

(h) Taxpayers must keep a record identifying where, when, by whom, and on what equipment the microfilm or microfiche was produced.

(i) When displayed on a microfilm or microfiche reader (viewer) or reproduced on paper, the material must be legible and readable. For this purpose, legible means the quality of a letter or numeral which enables the reader to identify it positively and quickly to the exclusion of all other letters or numerals. Readable means the quality of a group of letters or numerals recognizable as words or complete numbers.

(k) All production of microfilm or microfiche and the processing duplication, quality control, storage, identification, and inspection thereof must meet industry standards as set forth by the American National Standards Institute, National Micrographics Association, or National Bureau of Standards.

(4) **AUTOMATED DATA PROCESS SYSTEM.** An Automated Data Process (ADP) accounting system may be used to provide the records required to verify tax liability. All ADP systems used for this purpose must include a method for producing legible and readable records to verify tax liability, reporting, and payment. The following requirements apply to any taxpayer who maintains records on an ADP system:

(a) ADP records shall provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time they are done, the system must have the capability to reconstruct these transactions.

(b) A general ledger, with source references, shall be written out to coincide with financial reports for tax reporting periods. In the cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers shall be written out periodically.

(c) The audit trail shall be so designed that the details underlying the summary accounting data may be identified and made available to the department and the supporting documents, such as sales invoices, purchase invoices, credit memoranda, and like documents are readily available.

(d) A description of the ADP portion of the accounting system shall be made available. The statements and illustrations as to the scope of operations shall be sufficiently detailed to indicate:

- (i) the application being preformed;
- (ii) the procedures employed in each application (which, for example, might be supported by flow charts, block diagrams or other satisfactory description of the input or output procedures); and,
- (iii) the controls used to insure accurate and reliable processing.

(e) Important changes in an ADP accounting system or any part thereof, together with their effective dates, shall be noted to preserve an accurate chronological record of such changes.

(f) Adequate record retention facilities shall be available for the storage of such information, printouts and all supporting documents.

(5) **OUT-OF-STATE BUSINESSES.** An out-of-state business which does not keep the necessary records within this state may either produce within this state such records as are required for examination by the department, or, permit the examination of the records by the department at the place where the records are kept. RCW 82.32.070, See also, WAC 458-20-215.

(6) **FAILURE OF TAXPAYER TO MAINTAIN AND DISCLOSE COMPLETE AND ADEQUATE RECORDS.** Any person who fails to comply with the requirements of RCW 82.32.070 or this section shall be forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department based upon any period for which such books, records, and invoices have not been so kept and preserved. RCW 82.32.070

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

## WSR 89-08-090

### PROPOSED RULES

### HORSE RACING COMMISSION

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning:

Amd	WAC 260-34-010	Primary purpose.
Amd	WAC 260-34-020	Use of controlled substances.
Amd	WAC 260-34-030	Testing.
Amd	WAC 260-34-040	Definitions.
Amd	WAC 260-34-050	Reasonable suspicion.
Amd	WAC 260-34-060	Refusal to test.
Amd	WAC 260-34-070	Responsibility to report valid prescriptions.
Amd	WAC 260-34-080	Testing procedure.
Amd	WAC 260-34-090	A positive test.
Amd	WAC 260-34-100	Confidentiality of test results.
Amd	WAC 260-34-180	Testing expense.
New	WAC 260-34-190	Severability;

that the agency will at 1:00 p.m., Tuesday, May 9, 1989, in the Sea-Tac Red Lion, 18740 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

Dated: April 5, 1989

By: John Crowley  
Executive Secretary

### STATEMENT OF PURPOSE

In the matter of adopting the amendments to WAC 260-34-010, 260-34-020, 260-34-030, 260-34-040, 260-34-050, 260-34-060, 260-34-070, 260-34-080, 260-34-090, 260-34-100, 260-34-180 and adoption of WAC 260-34-190.

WAC 260-34-010 et seq are proposed for adoption as amended and set out in the notice of intention to adopt rules filed this date with the code reviser. The title of these rules is drug and alcohol testing of licensees and employees.

Description of Purpose: Preservation of the integrity of the sport of horse racing in the state of Washington; public safety, the commission seeks to ensure that licensees that participate in racing do not create a threat of harm or actual harm to other participants, nor to those observing races at race tracks in Washington; the protection of the health, safety and welfare of licensees, employees and applicants involved in racing, from exploitation fostered by the illegal use of controlled substances; the public image and perception of the conduct and regulation of horse racing; in furtherance of the public perception that horse racing is conducted in a fair and open manner, the Horse Racing Commission promulgates these rules to ensure that persons with alcohol

problems or problems with controlled substance abuse are limited in their involvement with horse racing so as to not diminish the public's perception of horse racing; and the commission recognizes that the most effective preventative measures are also measures considered by many to be most invasive of civil liberties, and intends to limit the impact on civil liberties by implementing limited preventative measures. The commission also recognizes that there are limits to the known correlation between the use of drugs, drug levels in bodily fluids and impairment from the presence of those drugs in the body, but that the known possible impairment and detriment to the integrity of the horse racing industry from the use of drugs warrants appropriate measures to prevent such use.

Statutory Authority: RCW 67.16.020 and 67.16.040.

These rules are being promulgated under the general rule-making authority of the Washington Horse Racing Commission to address a problem identified by the commission as threatening the integrity of the horse racing industry in Washington.

Summary of Rules: The rules which make up this chapter provide the basis for determining the circumstances under which drug testing is proper. The chapter sets out the actual protocol to be followed during and after actual testing. The chapter states the requirements for notice and appeal, in situations of conflict over the results of testing, and commission actions taken in accord with such test results.

Reasons Supporting the Proposed Action: This proposed action should be supported because the illegal use of controlled substances, and the reckless use of alcohol are major societal problems. Problems of such magnitude that if not checked will compromise and destroy the integrity of horse racing in Washington.

John Crowley, Executive Secretary, and members of the Horse Racing Commission staff are responsible for the drafting, implementation and enforcement of the proposed rules within this proposed chapter.

The proponent of the enactment of these rules is the Washington Horse Racing Commission, Warren Chinn, Chairperson.

The Washington Horse Racing Commission recommends adoption of these rules. They have been drafted in consultation with various parties, and the assistance of the Attorney General and his assistants, William A. Garling, Jr. and Francois Fischer.

The enactment of these rules is not necessary as the result of action by the legislature or by any court action, federal or state.

This certifies that copies of the statement are on file with the Horse Racing Commission, are available for public inspection, and that three copies of the statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Small Business Economic Impact Statement: The enactments listed above are not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

#### AMENDATORY SECTION (Amending Order 88-02, filed 4/15/88)

WAC 260-34-010 PRIMARY PURPOSE. In order to protect the integrity of horse racing in the state of Washington, to protect the health and welfare of licensees and employees engaged in horse racing within the state of Washington, to prevent the exploitation of the public, licensees and/or employees engaged in horse racing in the state of Washington, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Washington, the horse racing commission intends to regulate at all race meets licensed by it, the use of any controlled substance as listed in chapter 69.50 RCW or any ((prescription)) legend drug as defined in chapter 69.41 RCW unless such ((prescription)) legend drug was obtained directly and pursuant to a valid prescription from a duly licensed physician or dentist acting in the course of his or her professional practice. The commission recognizes that the most effective preventative measures are also measures considered by many to be most invasive of civil liberties, and intends to limit the impact on civil liberties by implementing limited preventative measures. The commission also recognizes that there are limits to the known correlation between the use of drugs, drug levels in bodily fluids and impairment from the presence of those drugs in the body, but that the known possible impairment and detriment to the integrity of the horse racing industry from the use of drugs warrants appropriate measures to prevent such use. This chapter shall be applicable to any licensee or employee who is responsible for the conduct of, or the officiating of, a race or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet.

#### AMENDATORY SECTION (Amending Order 88-02, filed 4/15/88)

WAC 260-34-020 ((INTOXICATION)) USE OF CONTROLLED SUBSTANCES. No licensee or employee of any racing association or any employee of the horse racing commission or applicant who is, or may be, responsible for the conduct of, or officiating of a race, or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet or on grounds licensed by the horse racing commission, shall be under the influence of intoxicating liquor, ((the combined influence of intoxicating liquor and any drug, or under the influence of any narcotic or other drug)) or have within their body any drug or controlled substance unless obtained directly and used pursuant to a valid medical prescription from a duly licensed physician or dentist acting in the course of his or her professional practice while within the enclosure of or on the premises managed by any association. ((In addition, the personal use by any licensee or employee of any drug or abuse of any)) "Controlled substance" or "drug" as used in this chapter means any substance listed in chapter 69.50 RCW ((is prohibited without valid legal prescription)) or legend drug as defined in chapter 69.41 RCW.

#### AMENDATORY SECTION (Amending Order 88-02, filed 4/15/88)

WAC 260-34-030 TESTING. The board of stewards of the horse racing commission or the commission, acting through the executive secretary, may require any licensee, employee of any racing association, or employee of the horse racing commission, or applicant, who is, or may be, responsible for the conduct of, or officiating of, a race, or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet, or on grounds licensed by the horse racing commission, to provide blood and/or urine samples for the purpose of drug or alcohol analysis under any of the following circumstances:

(1) As part of a physical examination described in WAC 260-32-160, as close as practicable prior to the testee's participation in his/her first race meeting of a calendar year.

(2) When the board of stewards finds that there is reasonable suspicion to believe that the proposed testee has used any ((drug, narcotic, or)) controlled substance ((as defined in chapter 69.50 RCW or any prescription legend drug)) unless such ((prescription legend drug)) controlled substance was obtained directly and used pursuant to a valid medical prescription from a duly licensed physician or dentist acting in the course of his or her professional practice or, alcohol in excess of the limits prescribed in this chapter.

(3) At the discretion of the stewards when the proposed testee has a documented history of an unexplained positive test which indicates illegal drug usage or when the proposed testee has a documented history



of ~~((sanction for drug usage or))~~ violating chapter 69.41, 69.45 or 69.50 RCW, WAC 260-34-020 or similar drug-related violation.

**AMENDATORY SECTION** (Amending Order 88-02, filed 4/15/88)

WAC 260-34-040 ~~DEFINITIONS ((OF LICENSEE AND EMPLOYEES))~~. (1) "Licensee," "employee," or "applicant": For the purpose of this chapter, "licensee," ~~((or))~~ "employee," or "applicant" means and includes any person licensed or employed, or an applicant for a license or employment by the horse racing commission within the state of Washington or by any association whose duties include any of the following: Training, exercising, riding, driving, or caring for a horse while he/she is on the association grounds to participate in a horse racing meet, or on premises licensed by the horse racing commission, or any licensed racing official who is involved in the conduct of a horse racing meet including, but not limited to:

- ~~((+1))~~ (a) Apprentice jockey;
- ~~((+2))~~ (b) Assistant starter;
- ~~((+3))~~ (c) Assistant trainer;
- ~~((+4))~~ (d) Clerk of scales;
- ~~((+5))~~ (e) Dentist;
- ~~((+6))~~ (f) Driver;
- ~~((+7))~~ (g) Exercise boy/girl;
- ~~((+8))~~ (h) Groom;
- ~~((+9))~~ (i) Horseshoer;
- ~~((+10))~~ (j) Jockey;
- ~~((+11))~~ (k) Jockey agent;
- ~~((+12))~~ (l) Out rider;
- ~~((+13))~~ (m) Paddock judge;
- ~~((+14))~~ (n) Pony rider;
- ~~((+15))~~ (o) Racing judge;
- ~~((+16))~~ (p) Security officer;
- ~~((+17))~~ (q) Starter;
- ~~((+18))~~ (r) Steward;
- ~~((+19))~~ (s) Trainer;
- ~~((+20))~~ (t) Valet;
- ~~((+21))~~ (u) Veterinarian;
- ~~((+22))~~ (v) Veterinarian's assistant;
- ~~((+23))~~ (w) Any other licensed personnel deemed appropriate by the horse racing commission where the person is involved in the conduct of a race.

(2) "Suspension": For purposes of this chapter, "suspension" means prevention from conducting the activities permitted or authorized by a license or employment or, if an applicant, prevention from obtaining a license or employment. "Suspension" is to be interpreted as a temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein, and is not to be considered punitive.

**AMENDATORY SECTION** (Amending Order 88-02, filed 4/15/88)

WAC 260-34-050 **REASONABLE SUSPICION**. When ~~((ordering a drug or alcohol test based upon))~~ determining whether there is reasonable suspicion to require testing, the board of stewards may consider, but are not limited to, any of the following factors:

- (1) Unexplained or continued rule violations which have a detrimental effect on racing.
- (2) Involvement in any accident which causes injury to person or animal at the track as well as any near accident which created a clear danger of accident or injury to person or animal at the track.
- (3) Willful conduct detrimental to horse racing as evidenced by continued rule violations, other disciplinary problems, behavioral problems, disturbances, or other similar conduct at the track.
- (4) Observable physical or emotional impairment at the track.
- (5) Involvement in a race of questionable outcome or circumstance as determined by the board of stewards in the exercise of their expertise.
- (6) Willful abuse of animal or person who is engaged in a race, work, or exercise engagement at the track.
- (7) Prior positive test or tests, excluding those where a valid legal prescription has been revealed.
- (8) Performance of prescribed duties in a manner which indicates a best effort to win is not present at the track.
- (9) Information supplied by a law enforcement agency, the thoroughbred racing protective bureau, or horse racing commission of any state or country which is verified in writing relating to drug or alcohol abuse or both.

(10) Any other physical conduct at the track which can be documented which would indicate ~~((the possibility of drug or narcotic))~~ reasonable grounds to believe the existence of dependence on or usage, of a controlled substance, or alcohol abuse.

~~((11))~~ Repeated wrongful refusal to take a test when requested to do so within this chapter.

**AMENDATORY SECTION** (Amending Order 88-02, filed 4/15/88)

WAC 260-34-060 **REFUSAL TO TEST**. (1) When any licensee ~~((or))~~, employee, or applicant is requested to submit to a test in a manner prescribed by this chapter, ~~((he/she))~~ the person shall do so in a prompt manner. Refusal to supply such sample shall result in:

~~((+1))~~ (a) Immediate suspension of the licensee ~~((or))~~, employee~~((-))~~, or applicant; and

~~((+2))~~ (b) A hearing before the board of stewards in accordance with WAC 260-24-440 with written notice of the issue to be addressed prepared by the presiding steward, to be held within the next two racing days ~~((of the delivery))~~ or seven calendar days, whichever is less, after service of the notice or sooner or later if the licensee ~~((or))~~, employee, or applicant and the board of stewards agree ~~((to it))~~. Service shall be to the licensee, employee, or applicant personally, by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mailing the notice to the person's last known address. If by mail, service shall be deemed completed on the third day after mailing.

~~((+3))~~ (2) If the board of stewards ~~((shall confirm the facts with respect to the refusal to test at the hearing and where substantiated))~~ finds at the hearing that said refusal to test occurred without just cause, the licensee ~~((or))~~, employee, or applicant shall be suspended from racing for and until such time as a ~~((negative))~~ test has been obtained in conformance with this chapter. In the event of a finding of just cause, the licensee, employee, or applicant must submit to a test immediately once the conditions which justly prevented testing abate or can be eliminated.

~~((+4))~~ ~~((Continued))~~ (3) Repeated refusal without just cause to submit to an ordered test ~~((will))~~ may result in license revocation and banning from race meets in the state of Washington by the commission after a hearing pursuant to chapters 260-08 and 260-88 WAC.

**AMENDATORY SECTION** (Amending Order 88-02, filed 4/15/88)

WAC 260-34-070 **RESPONSIBILITY TO REPORT VALID PRESCRIPTIONS**. Whenever any licensee ~~((or))~~, employee, or applicant has been directed ~~((by the stewards))~~ to submit to a drug test and that licensee ~~((or))~~, employee, or applicant is taking a controlled substance pursuant to a valid prescription on order of a duly licensed physician or dentist, it shall be the ~~((licensee or))~~ licensee's, employee's, or applicant's responsibility to ~~((given))~~ give immediately prior to testing written notice to the ~~((chief of security, or his))~~ medical staff member designated pursuant to WAC 260-34-080 or designated representative of the Washington horse racing commission containing the following:

- (1) Name of the licensee ~~((or))~~, employee, or applicant.
- (2) The name, quantity, and dosage of the controlled substance ~~((prescription))~~ prescribed.
- (3) The name of the duly licensed physician or dentist prescribing same.
- (4) The date the prescription was prescribed.

(5) The time and date next preceding the date of the test when the prescribed controlled substance was ingested by the licensee, employee, or applicant.

All such notices shall become part of the records of the drug test and preserved to maintain strict confidentiality of the contents.

**AMENDATORY SECTION** (Amending Order 88-02, filed 4/15/88)

WAC 260-34-080 **TESTING PROCEDURE**. (1) When the drug testing is ~~((a result of a))~~ required ~~((physical examination or))~~ as described in WAC ~~((236-34-030))~~ 260-34-030(1), the following procedure will be used:

(a) The licensee ~~((or))~~, employee, or applicant will report to the specified physician where a member of the medical staff designated by the physician will supervise the sample being given. The supervision need not include actual observance of the delivery of the sample but the sample shall be taken under such circumstances that the integrity of the sample is maintained without unnecessarily interfering with the individual rights of the ~~((licensee))~~ person tested, including the right to be free from unnecessary embarrassment. Intentional contamination of

the sample by any ((licensee)) person tested which is likely to prevent appropriate analysis of the sample shall be grounds for the suspension or revocation of the ((licensee's license)) person tested.

~~((Am))~~ (b) The urine sample will be at least 75 ml in volume. The urine sample will be divided into two parts of at least 25 ml and 50 ml in the presence of the person tested. If the licensee, employee, or applicant is unable to provide 75 ml of urine, the licensee, employee, or applicant may waive in writing the division of the sample and preservation of an untested portion of the sample as provided in (c) of this subsection and subsection (4) of this section. If the person tested is unable to provide a sufficiently large sample, either 75 ml or 50 ml with a waiver, the person shall not be suspended, but shall not participate in racing until such time as he or she is able to provide sufficient urine and completes the test. All portions of the sample shall be placed in ~~((a))~~ containers and sealed ~~((together))~~ with ~~((a))~~ double identification tags in the presence of the person being tested.

(c) The 25 ml (or more) container will be preserved pursuant to subsection (3) of this section by the medical facility obtaining the sample. Both licensee, employee, or applicant and member of the medical staff, chief of security, or designated representative of the horse racing commission will sign the tag to attest to the sealing and labeling of the sample.

(d) The 50 ml (or more) container will be prepared for transportation as follows: One portion of ~~((such))~~ the container's tag bearing a printed identification number shall remain with the sealed container. The other portion of such tag bearing the same printed identification number, shall be detached in the presence of the person tested and a member of the medical staff ~~((and))~~, the chief of security or ~~((his))~~ designated representative of the horse racing commission. The licensee ~~((or))~~, employee, or applicant will ~~((attest by signature on))~~ initial or sign the designated portion of the tag to ~~((indicate))~~ attest witnessing such action. The member of the medical staff ~~((and))~~, the chief of security or ~~((his))~~ designated representative of the horse racing commission will ~~((further attest by signature to indicate))~~ also sign the detached portion of the tag to attest witnessing such action. The sample will then be handled in a manner consistent with an evidentiary chain of custody ~~((by the chief of security or his designated representative of the horse racing commission))~~ throughout the transportation and laboratory testing process. The sample and the tag identifying ~~((same))~~ the sample which is to be provided to the laboratory for analysis shall not identify the person by name, but only by number assigned and recorded by the members of the medical staff, chief of security, or ~~((his))~~ designated representative of the horse racing commission.

(2) When the testing is to be done as a result of reasonable suspicion or the result of mandatory testing being conducted after a positive test, the same procedure for handling the specimens shall be utilized as in subsection (1) of this section, but the sample may be taken at the track and witnessed by the chief of security or ~~((his))~~ designated representative of the horse racing commission. The witness must be of the same sex as the person being tested. After the sample is taken, divided and sealed, the chief of security or ~~((his))~~ designated representative of the horse racing commission will be responsible for the evidentiary chain of custody and transportation of one portion of the sample to the laboratory and storage of the other portion pursuant to subsection (3) of this section. The chief of security of the horse racing commission will maintain a checklist of procedures ~~((in implementing))~~ to implement these steps ~~((which))~~; the checklist will be marked as ~~((they))~~ the steps are carried out and it will be maintained as part of security records.

(3) Each portion of the sample supplied by the person tested will be preserved by the member of the medical staff, chief of security, representative of the horse racing commission, or laboratory for thirty days unless there is a positive test result. If there is a positive test result, the samples will be preserved until released by the executive secretary of the horse racing commission after all hearings and appeals have been terminated. The samples will be preserved in a secured location by refrigeration or freezing for the first thirty days and thereafter by freezing.

(4) Either or both portions of the sample may be retested at the request of the licensee, employee, or applicant at either the laboratory used by the horse racing commission or a separate equally or better qualified and reputable laboratory designated by the licensee, employee, or applicant. If the untested sample is transported for testing, transportation will be performed by the chief of security or designated representative of the horse racing commission using an evidentiary chain of custody. None of the originally untested 25 ml portion is required to be saved after testing for retesting. The licensee, employee,

or applicant is responsible for all costs of transporting and testing or retesting a sample at his or her request.

#### AMENDATORY SECTION (Amending Order 88-02, filed 4/15/88)

WAC 260-34-090 A POSITIVE TEST. ~~((In order to be considered positive, any test must be confirmed by at least two independent testing methods which are state-of-the-art as determined by the laboratory conducting the tests:))~~ A drug test shall be positive when the presence of a controlled substance is confirmed by two independent tests performed on the same sample supplied by a licensee, employee, or applicant. The tests used will be the E.M.I.T. screen test, followed by a gas chromatography/mass spectrometry confirmatory test, or other tests which the scientific community recognizes are equally or more accurate and reliable. If marijuana ~~((is))~~ or its derivatives, salts, isomers, or salts of isomers are detected in a drug test, ~~((it))~~ such a result will not be reported positive unless found at ~~((the))~~ levels of at least one hundred nanograms per milliliter.

A positive ~~((controlled substance or prescription))~~ drug ~~((result))~~ test shall be reported by the laboratory to the presiding steward at the track. On receiving written notice from the laboratory that a specimen has been found positive for a controlled substance ~~((or prescription legend drug, the procedure shall be as follows))~~, the presiding steward shall initiate the following procedure:

(1) ~~((The presiding steward shall give))~~ Written notice shall be given to the licensee ~~((or))~~, employee ~~((in writing))~~ or applicant, setting a hearing by the board of stewards in accordance with WAC 260-24-440 within the next two racing days ~~((of delivery))~~ or seven calendar days, whichever is less, after service of the notice ~~((or sooner))~~. The hearing may be held within a shorter or longer period of time if the licensee ~~((or))~~, employee, or applicant named and the board of stewards agree. Service shall be to the licensee, employee, or applicant personally, by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mail to the person's last known address. If by mail, service shall be deemed completed on the third day after mailing.

(2) The hearing shall be conducted before the board of stewards pursuant to WAC 260-24-440. At the hearing, the licensee ~~((or))~~, employee, or applicant shall be provided an opportunity to explain the positive test.

(3) ~~((This))~~ The board of stewards' hearing shall be closed and the ~~((findings))~~ facts therein will be kept confidential unless for use with respect to any subsequent contested hearing or order ~~((issued pursuant to this chapter or any administrative))~~ by the horse racing commission or judicial hearing with regard to such ~~((a finding))~~ facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or applicant. The board may issue a public ruling which complies with the confidentiality requirements of this section and WAC 260-34-100.

(4) Lacking a satisfactory explanation and documentation or upon the licensee ~~((or))~~, employee, or applicant agreeing with the test results, the board of stewards shall suspend the licensee, employee, or applicant until:

(a) ~~((Suspend the licensee or employee until such time as))~~ A negative test can be submitted by that licensee ~~((or))~~, employee, or applicant and the results reviewed by the board of stewards ~~((:))~~; and

(b) ~~((Refer))~~ The licensee ~~((or))~~, employee, or applicant is referred to an approved agency for a drug evaluation interview and completes the evaluation.

(i) If ~~((after such))~~ the evaluation ~~((:))~~ concludes that the licensee ~~((or employee's condition proves nonaddictive and not detrimental to the best interests of racing as determined by the board of stewards))~~, employee, or applicant is not addicted or habituated, and if the board of stewards determines that the licensee's, employee's, or applicant's condition is not detrimental to the best interests of racing, the licensee ~~((or))~~, employee, or applicant shall be allowed to participate in racing provided he or she agrees that further testing may be done as described in WAC 260-34-030(3).

~~((c))~~ (ii) If ~~((, after))~~ such ~~((professional))~~ drug evaluation ~~((:))~~ concludes that the licensee ~~((or employee's condition proves addictive))~~, employee, or applicant is addicted or habituated, or the board of stewards determines that the licensee's, employee's, or applicant's condition is detrimental to the best interests of racing, the licensee ~~((or))~~, employee, or applicant shall not be allowed to participate in racing until such time as he or she can produce a negative test result and show official documentation that he or she has successfully completed a certified drug rehabilitation program approved by the board of stewards, in consultation with the executive secretary of the horse racing

commission. The licensee ((or)), employee, or applicant must agree to further testing as described in WAC 260-34-030(3).

(5) For a second ((offense)) positive drug test in the calendar year, the licensee ((or)), employee, or applicant shall be suspended for the balance of the calendar year or one hundred twenty days, whichever is greater, and ((he or she)) the person is required to complete a certified drug rehabilitation program approved by the board of stewards in consultation with the executive secretary of the horse racing commission before applying for a reinstatement of license. The licensee, employee, or applicant must agree to further testing as described in WAC 260-34-030(3).

(6) When any licensee ((or)), employee, or applicant has a history of more than two ((drug-related)) violations of ((this chapter, that licensee or employee may be declared)) WAC 260-34-020 or positive drug tests, the horse racing commission may, pursuant to a hearing conducted under chapter 260-08 WAC, declare such person detrimental to the best interests of racing and ((sanctioned as such)) revoke that person's license or application. Reapplication shall not be permitted for such period of months or years as the commission determines is necessary to ensure the person's freedom from use of controlled substances and not until meeting the requirements of subsection (5) of this section.

AMENDATORY SECTION (Amending Order 88-02, filed 4/15/88)

WAC 260-34-100 CONFIDENTIALITY OF TEST RESULTS. The ((chief of security)) executive secretary of the horse racing commission shall maintain all test results and records, both negative and positive, confidential. He or she shall document the process which will ensure the confidentiality of the handling of such results. Information contained in the test results shall remain confidential at all times except for use with respect to any contested hearing or order ((issued pursuant to this chapter or any administrative)) by the horse racing commission or judicial hearing with regard to such an order. Access to the reports of any test results shall be limited to the executive secretary, the board of stewards, the chief of security of the commission at the track, the physician or member of the medical staff obtaining and preserving samples, the laboratory and the person being tested, except in the instance of a contested ((matter)) commission hearing. The information obtained as a result of a test being required under the rules of the horse racing commission shall be considered privileged and shall be used for administrative purposes only and, further, shall be exempt from use as evidence in any criminal prosecution involving the violation of offenses listed in chapter 69.50 RCW.

AMENDATORY SECTION (Amending Order 88-02, filed 4/15/88)

WAC 260-34-180 TESTING EXPENSE. Except for retesting requested by a licensee, employee, or applicant pursuant to WAC 260-34-080(4), all testing, whether blood, urine, or breath, ordered pursuant to this chapter shall be at the expense of the horse racing commission. All expense of drug and/or alcohol evaluation, treatment, reports, and fees shall be at the expense of the licensee ((or)), employee, or applicant undergoing such evaluation or treatment.

NEW SECTION

WAC 260-34-190 SEVERABILITY. If any section, subsection, or provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or application of the section, subsection, or provision to other persons or circumstances is not affected.

**WSR 89-08-091**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Licensing intends to adopt, amend, or repeal rules concerning vehicle licenses;

that the agency will at 9:00 a.m., Wednesday, May 24, 1989, in the 2nd Floor Conference Room, Building 2, 405 Black Lake Boulevard, 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 46.72.120, Laws of 1967 and RCW 46.16.225, Laws of 1986.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 24, 1989.

Dated: April 4, 1989

By: Maxine Nelson  
 Administrative Assistant

**STATEMENT OF PURPOSE**

Name of agency: Washington State Department of Licensing.

Purpose: To allow staggered expirations of the for-hire motor vehicle license plates.

Statutory Authority: RCW 46.16.225, Laws of 1986 and RCW 46.72.120, Laws of 1967.

Summary of the Rules: Deleting WAC 308-89-040(c) For hire vehicle registration and WAC 308-96A-260(2) Staggered licensing—Assignment of registration year first time licensed.

Reason Proposed: To accommodate an industry request to coincide the expiration dates of for-hire certificates, for-hire certificates of insurance and for-hire vehicle registrations.

Responsible Department Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of an responsibility for drafting, implementing, enforcing and repealing these rules: Ken Mark, Assistant Director, Business License Services, Department of Licensing, 405 Black Lake Boulevard, Olympia, WA 98504, phone (206) 753-1749 comm or 234-1749 scan; and Keith Weaver, Administrator, Business License Services, Department of Licensing, 405 Black Lake Boulevard, Olympia, WA 98504, phone (206) 753-9627 comm or 234-9627 scan.

Proponents: The state of Washington, Department of Licensing.

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

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

AMENDATORY SECTION (Amending Order TL-RG-15, filed 8/6/85)

WAC 308-89-040 FOR HIRE VEHICLE REGISTRATION. A for hire operator shall file an application for vehicle license for each vehicle intended to be operated as a for hire vehicle. In addition to the licensing requirements of motor vehicles, the following shall apply on for hire vehicles: ((a)) (1) The name of the owner of the vehicle shall be displayed on the vehicle registration in the same name as recorded on the bond or insurance policy, the for hire permit, and the for hire certificates; ((b)) (2) the purpose for which the vehicle is to be used shall be recorded as either "CAB" or "F/H" ((c) an annual license expiration of June 30).

AMENDATORY SECTION (Amending Order TL/RG 24, filed 5/5/86)

WAC 308-96A-260 STAGGERED LICENSING—ASSIGNMENT OF REGISTRATION YEAR FIRST TIME LICENSED. Vehicles licensed for the first time in this state will have expiration dates assigned as follows:

(1) Fleet vehicles and prorated vehicles will have a registration year ending December 31.

(2) ~~((For hire vehicles will have a registration year ending June 30. (3)))~~ Snowmobiles will have a registration year ending September 30.

~~((4))~~ (3) Exempt vehicles are not required to have their licenses renewed so will not have an expiration date assigned, except that exempt vehicles using propane, butane or natural gas will have a June 30 expiration date for special fuel billing purposes. This does not apply to federal exempt vehicles.

~~((5))~~ (4) All other vehicles, including those issued amateur radio operator plates, personalized plates, and ORV use permits will have a registration year beginning at 12:01 a.m. on the first day of the month in which the vehicle is first licensed and ending at 12:01 a.m. on the same date of the next succeeding year, except that if the vehicle has been leased for thirteen months, the first registration year may be for thirteen months, beginning at 12:01 a.m. on the first day of the month in which the vehicle is first licensed and ending at 12:01 a.m. on the first day of the following month of the next succeeding year.

~~((6))~~ (5) A license purchased on February 29 will have an expiration date of February 28.

~~((7))~~ (6) In the event that the final day of a registration year falls on a Saturday, Sunday or legal holiday, such period shall extend through the end of the next business day.

**WSR 89-08-092**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Examining Board of Psychology)**  
[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Examining Board of Psychology intends to adopt, amend, or repeal rules concerning new WAC 308-122-211 Psychologists—Education prerequisites to licensing for applicants enrolled in a doctoral program between December 28, 1978, to October 19, 1987;

that the agency will at 9:30 a.m., Friday, May 12, 1989, in the Southcenter Room, Nendel's Southcenter, 15901 West Valley Highway, Tukwila, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.83.050.

The specific statute these rules are intended to implement is RCW 18.83.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 11, 1989.

Dated: April 4, 1989

By: Joyce A. Roper  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Title and Number of Rule Section and Chapter: New WAC 308-122-211 Psychologists—Education prerequisites to licensing for applicants enrolled in a doctoral

program between December 28, 1978, to October 19, 1987.

Statutory Authority and Specific Statute that the Rule is Intended to Implement: RCW 18.83.050.

Summary of Rule and Reasons Supporting the Rule: To address a gap by the amendment of WAC 308-122-200, which increased the educational requirements for licensure and has adversely impacted those who were enrolled in programs as approved prior to the amendment.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Yvonne Braeme, Executive Secretary, Professional Program Management Division, Fourth Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-3095 scan, 753-3095 comm.

Name of Person or Organization that is Proposing this Rule: Examining Board of Psychology.

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

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

The department has reviewed the impact that the adoption of this rule would have on psychologists. Psychologists are most appropriately classed in SIC Code 8049. They do not account for more than 10 percent of the firms and individuals in this area. They are less than 20 percent of all firms and individuals in all industries. Cost for small business is estimated to be zero. Any impact that this proposed rule may have is intended to fall equally on all psychologists.

NEW SECTION

WAC 308-122-211 PSYCHOLOGISTS—EDUCATION PREREQUISITE TO LICENSING FOR TITLE. (1) This rule applies in lieu of WAC 308-122-200 for applicants enrolled between December 28, 1978 and October 19, 1987 in a program leading to a doctoral degree. To meet the education requirement imposed by the statute, an applicant must possess a doctoral degree from a training institution approved by the board in which at least forty semester hours, or sixty quarter-hours, of graduate courses were passed successfully, and were clearly identified by title and course content as being primarily psychological in nature, as determined by the board. Part of the standards for issuance of said degree must require the submission of an original dissertation which must be psychological in nature, as determined by the board.

(2) The following guidelines define the "academic core" of study that should have been completed by each applicant:

(a) Programs accredited by the American Psychological Association are recognized as one way of meeting the definition of a professional psychology program. The criteria for accreditation serve as a model for professional training.

(b) Training in professional psychology is doctoral training offered in regionally accredited institution of higher education.

(c) The program must be clearly identified and labeled as a psychology program. Pertinent catalogues and brochures must show intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent, organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(f) There must be an organized sequence of study planned by those responsible for the training program to provide an appropriate, integrated, experience applicable to the professional practice of psychology.

(g) There must be an identifiable psychology faculty and a psychologist responsible for the program.

(h) There must be an identifiable body of students, selected on the basis of high ability and appropriate educational preparation.

(i) Programs must include practicum, internship, field or laboratory experience appropriate to the practice of psychology.

(j) The curriculum should encompass a minimum (or equivalent) of three academic years of full-time graduate study. The doctoral program should involve at least one continuous year of full-time residency at the university at which the degree is granted. Instruction should include scientific and professional ethics and standards, history and systems: Research design and methodology; statistics and psychometrics. The core program should also require each student to obtain an academic background to the following content areas (typically six or more semester hours):

(i) Biological bases of behavior: e.g., physiological psychology, comparative, neuropsychology, sensation and perception, psychopharmacology.

(ii) Cognitive-affective bases of behavior: e.g., learning, thinking, motivation, emotions.

(iii) Social bases of behavior: e.g., social, psychology, group processes, organizational and systems theory.

(iv) Individual differences: e.g., personality theory, human development, abnormal psychology.

(3) If the major emphasis is in an applied area such as clinical, counseling, school or other pertinent areas, the program must include a set of coordinated practicum and internship experiences which total at least two semesters in the practicum setting, and additionally a "one-year" internship. A minimum of 300 hours of practicum, including 100 hours of scheduled individual supervision, should precede the internship.

(4) The psychological services offered in the internship program in "Standards for providers of psychological services" published by the American Psychological Association may be used as a framework for the internship program. The board also recognizes other quality internship programs.

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

**WSR 89-08-093**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Nursing)**  
[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Nursing intends to adopt, amend, or repeal rules concerning licensure by interstate endorsement, WAC 308-120-168;

that the agency will at 10:30 a.m., Friday, May 12, 1989, in the Spinnaker Room, Fife Executive Inn, 5700 Pacific Highway East, Tacoma, WA 98424, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.88.080, [18.88].086, [18.88].130, [18.88].140, [18.88].150, 18.130.050 and 70.24.270.

The specific statute these rules are intended to implement is RCW [18.88].140, [18.88].150, 18.130.050 and 70.24.270.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 12, 1989.

Dated: April 4, 1989

By: Constance Roth, R.N., Ed.D.  
Executive Secretary

**STATEMENT OF PURPOSE**

Title and Number of Rule Sections or Chapters:  
WAC 308-120-168 Licensure by interstate endorsement.

Statutory Authority: RCW 18.88.080, [18.88].086, [18.88].130, [18.88].140, [18.88].150, 18.130.050 and 70.24.270.

Specific Statute that Rule is Intended to Implement:  
RCW 18.88.080, [18.88].086, [18.88].130, [18.88].140, [18.88].150, 18.130.050 and 70.24.270.

Summary of the Rules and Reasons Supporting the Proposed Actions: To provide for a ninety days' time period for interstate endorsement licensure applicants to comply with, and submit certification of, the minimum training and education requirements of WAC 308-120-610.

In addition to members of the Board of Nursing, and the director of the Department of Licensing, the following individual has knowledge of and responsibility for drafting, implementing, and enforcing these rules: Constance Roth, R.N., Ed.D., Executive Secretary/Program Manager, Division of Professional Licensing, P.O. Box 9649, Olympia, Washington 98504, (206) 753-2686 comm, 234-2686 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Board of Nursing.

Agency Comments or Recommendations: None.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rules or Their Purposes: None.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact more than 20 percent of all industries, or more than 10 percent of any one industry as that term is defined by RCW 19.85.020(3).

AMENDATORY SECTION (Amending Order PM 795, filed 11/9/88)

WAC 308-120-168 LICENSURE BY INTERSTATE ENDORSEMENT. (1) A license to practice as a registered nurse in Washington may be issued without examination provided the applicant meets all of the following requirements:

(a) The applicant has graduated and holds a degree/diploma from a state board approved school of nursing preparing candidates for licensure as a registered nurse provided such nursing program is equivalent to the minimum nursing educational standards prevailing for state board approved schools of nursing in Washington at the time of the applicant's graduation.

(i) Applicants who were licensed prior to January 1, 1953, shall have scored at least 75% on the state board examination in the state of original licensure.

(ii) Applicants licensed after January 1, 1953, but before June 1, 1982, shall have passed the state board test pool examination for registered nurse licensure with a minimum standard score of 350 in each test.

(iii) Applicants licensed after July 1, 1982, shall have passed with a minimum standard score of 1600 for the total examination.

(b) The applicant holds a valid current license to practice as a registered nurse in another state or territory.

(c) The applicant complies with the education requirements of WAC 308-120-610; however, upon written application an applicant, who is otherwise qualified for licensure, may be licensed and have up to ninety days from the date of the issuance of such license to comply with, and submit certification of, the minimum training and education requirements of WAC 308-120-610.

(d) The application shall be completed and notarized, the fee must be filed with the application. The fee is not refundable. A notarized copy of a valid current license shall be filed with the application.

(e) Verification of licensure by examination shall be obtained from the state or territory of original licensure. Any fee for verification required by the state or territory of original license shall be paid by the applicant.

(2) Applicants from countries outside the United States who were granted a license in another ((U.S.)) United States jurisdiction or territory prior to December 31, 1971, and who were not required to pass the state board test pool examination shall meet the following requirements:

(a) The nursing education program shall meet the minimum approved standards prevailing for schools of nursing in Washington at the time of the applicant's graduation.

(b) The applicant holds a valid current license to practice as a registered nurse in another ((U.S.)) United States jurisdiction or territory.

(c) The applicant shall submit to the board:

(i) A complete notarized application. The nonrefundable fee must be filed with the application.

(ii) Verification of original licensure obtained in the ((U.S.)) United States jurisdiction or territory.

(iii) Notarized copies of educational preparation and licensure by examination submitted directly from the country of original licensure or from the state board or territory of original ((U.S.)) United States licensure.

(iv) Verification of current nursing practice for three years prior to application for Washington licensure.

(v) Evidence to show compliance with the education requirements of WAC 308-120-610.

(d) The applicant shall meet all requirements of chapter 18.88 RCW and regulations of the board.

**WSR 89-08-094**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
[Order BLS-135—Filed April 5, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to vehicle licenses.

I, Mary 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 adoption of an emergency rule is required because Pierce, Snohomish and King counties will come into the county auditor automated project (CAAP) within the next 30 days. Adoption of this emergency rule will reduce the confusion and burden placed on for-hire registrants by a date-certain renewal date on this system.

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

This rule is promulgated pursuant to RCW 46.72.120, Laws of 1967 and RCW 46.16.225, Laws of 1986 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 4, 1989.

By Mary Faulk  
Director

**AMENDATORY SECTION (Amending Order TL-RG-15, filed 8/6/85)**

**WAC 308-89-040 FOR HIRE VEHICLE REGISTRATION.** A for hire operator shall file an application for vehicle license for each vehicle intended to be operated as a for hire vehicle. In addition to the licensing requirements of motor vehicles, the following shall apply on for hire vehicles: ~~((f))~~ (1) The name of the owner of the vehicle shall be displayed on the vehicle registration in the same name as recorded on the bond or insurance policy, the for hire permit, and the for hire certificates; ~~((b))~~ (2) the purpose for which the vehicle is to be used shall be recorded as either "CAB" or "F/H" ~~((c) an annual license expiration of June 30)).~~

**AMENDATORY SECTION (Amending Order TL/RG 24, filed 5/5/86)**

**WAC 308-96A-260 STAGGERED LICENSING—ASSIGNMENT OF REGISTRATION YEAR FIRST TIME LICENSED.** Vehicles licensed for the first time in this state will have expiration dates assigned as follows:

(1) Fleet vehicles and prorated vehicles will have a registration year ending December 31.

(2) ~~((For hire vehicles will have a registration year ending June 30.~~

~~((3))~~ Snowmobiles will have a registration year ending September 30.

~~((4))~~ (3) Exempt vehicles are not required to have their licenses renewed so will not have an expiration date assigned, except that exempt vehicles using propane, butane or natural gas will have a June 30 expiration date for special fuel billing purposes. This does not apply to federal exempt vehicles.

~~((5))~~ (4) All other vehicles, including those issued amateur radio operator plates, personalized plates, and ORV use permits will have a registration year beginning at 12:01 a.m. on the first day of the month in which the vehicle is first licensed and ending at 12:01 a.m. on the same date of the next succeeding year, except that if the vehicle has been leased for thirteen months, the first registration year may be for thirteen months, beginning at 12:01 a.m. on the first day of the month in which the vehicle is first licensed and ending at 12:01 a.m. on the first day of the following month of the next succeeding year.

~~((6))~~ (5) A license purchased on February 29 will have an expiration date of February 28.

~~((7))~~ (6) In the event that the final day of a registration year falls on a Saturday, Sunday or legal holiday, such period shall extend through the end of the next business day.

**WSR 89-08-095**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Dental Disciplinary Board)**  
 [Order PM 826—Filed April 5, 1989]

Be it resolved by the Washington State Dental Disciplinary Board, acting at the Ramada Inn at Sea-Tac, Salon D, 18118 Pacific Highway South, Seattle, WA 98118, that it does adopt the annexed rules relating to specialty representation, amending WAC 308-37-190.

This action is taken pursuant to Notice No. WSR 89-05-020 filed with the code reviser on February 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 under the general rule-making authority of the Dental Disciplinary Board as authorized in RCW 18.32.640.

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 25, 1989.

By Richard Ferguson, D.D.S.  
 Chairperson

AMENDATORY SECTION (Amending Order PL 520, filed 2/19/85)

WAC 308-37-190 SPECIALTY REPRESENTATION. (1) It shall be misleading, deceptive or improper conduct for a dentist to represent or imply that he or she is a specialist or use any of the terms to designate a dental specialty such as:

- (a) Endodontist
- (b) Oral or maxillofacial surgeon
- (c) Oral pathologist
- (d) Orthodontist
- (e) ~~((Pedodontist))~~ Pediatric dentist
- (f) Periodontist
- (g) Prosthodontist
- (h) Public health

or any derivation of these specialties unless he or she is entitled to such specialty designation under the guidelines or requirements for specialties ~~((of))~~ approved by the Commission on Dental Accreditation ((of)) and the Council on Dental Education of the American Dental Association in effect ((of)) on January 1, ((1985)) 1988, or such guidelines or requirements as subsequently amended and approved by the dental disciplinary board, or other such organization recognized by the board.

(2) A dentist not currently entitled to such specialty designation shall not represent that his or her practice is limited to providing services in a specialty area without clearly disclosing in the representation that he or she is a general dentist. A specialist who represents services in areas other than his or her specialty is considered a general dentist.

**WSR 89-08-096**  
**ADOPTED RULES**  
**COUNCIL ON HEARING AIDS**  
 [Order PM 828—Filed April 5, 1989]

Be it resolved by the Washington State Council on Hearing Aids, acting at the West Coast Sea-Tac Hotel, Seattle Room, 18220 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to examinations, amending WAC 308-50-010.

This action is taken pursuant to Notice No. WSR 89-05-055 filed with the code reviser on January 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 18.35.161(4) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 5, 1989.

By Roger Stimbert  
 Chairman

AMENDATORY SECTION (Amending Order PM 654, filed 6/26/87)

WAC 308-50-010 EXAMINATIONS. (1) The examination required of applicants shall be in ~~((two))~~ three parts: ((Written and practical, each consisting of several sections. PROVIDED, That effective with the July 1988 examination, the examination shall be in two parts:)) One written and two practical.

(2) The ~~((minimum passing grade for each section shall be seventy percent with the minimum average grade of seventy-five percent for each part before an applicant shall be considered to have satisfactorily passed the required examination for licensure. PROVIDED, That effective with the July 1988 examination, the))~~ minimum passing grade shall be seventy percent for each part to pass the required examination for licensure.

(3) In addition to those subjects listed in RCW 18.35.070, the examination shall test the knowledge of the applicant in the basic act governing hearing aid fitter/dispensers and rules and regulations promulgated pursuant to this act.

(4) Applications for examination shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.

**WSR 89-08-097**  
**PROPOSED RULES**  
**BASIC HEALTH PLAN**  
 [Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Basic Health Plan intends to adopt, amend, or repeal rules concerning this notice proposes to adopt permanently the emergency amendatory rules of chapter 55-01 WAC which were filed on March 31, 1989, WSR 89-08-055;

that the agency will at 9:00 a.m., Wednesday, May 10, 1989, in the House Hearing Room C, House Office Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 17, 1989.

The authority under which these rules are proposed is RCW 70.47.050.

The specific statute these rules are intended to implement is chapter 70.47 RCW.

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

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Marc E. Provence  
 Director of Operations  
 Washington Basic Health Plan  
 1220 Eastside Street S.E.  
 Olympia, WA 98504-2215  
 phone (206) 586-5332

Dated: April 3, 1989  
 By: Thomas L. Kobler  
 Administrator

#### STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s) Affected by Amendatory Rules: Chapter 55-01 WAC, Washington Basic Health Plan (BHP); includes WAC 55-01-010 Definitions.

Statutory Authority: RCW 70.47.050.

Specific Statute that the Amendatory Rule(s) are Intended to Implement: Chapter 70.47 RCW.

Summary of the Amendatory Rule(s): Will expand and clarify the definition of "income."

Reasons Supporting the Proposed Amendatory Rule(s): The income of a family or individual is a key criterion upon which eligibility for and premium obligation to the Washington Basic Health Plan is based. The

proposed rule amends the definition of income to clarify for applicants and members the bases upon which income will be determined.

Agency Personnel Responsible for Drafting: Marc E. Provence, Director of Operations, Washington Basic Health Plan, 1220 Eastside Street S.E., HL-11, Olympia, WA 98504, (206) 586-5332; Implementation and Enforcement: Thomas L. Kobler, Director, Washington Basic Health Plan, 1220 Eastside Street S.E., HL-11, Olympia, WA 98504, (206) 586-5332.

Name of the Person or Organization, Whether Private, Public or Governmental, that is Proposing the Rule: Washington Basic Health Plan.

Additional Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): None.

These amendatory rule(s) are not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Amendatory Rule(s) or Their Purpose: [No information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

#### AMENDATORY SECTION (Amending Order 89-001, filed 2/16/89)

WAC 55-01-010 DEFINITIONS. The following definitions apply throughout these rules.

(1) "Administrator" means the Washington basic health plan administrator.

(2) "Certificate of coverage" means a written document issued by the plan to a subscriber which describes the covered services, premiums, grievance procedures and other rights and responsibilities of enrollees. The certificate of coverage issued to a subscriber shall pertain to the subscriber and family dependents.

(3) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a managed health care system or health care provider, or to the plan, when specifically instructed to do so by the plan, for covered services provided to the enrollee.

(4) "Covered services" means those services and benefits to which an enrollee is entitled, under the certificate of coverage issued by the plan to the enrollee (or to a subscriber on behalf of the enrollee), in exchange for payment of premium and applicable copayments.

(5) "Dependent child" means an individual's unmarried natural child, stepchild, or legally adopted child, who is either (a) younger than age nineteen, or (b) younger than age twenty-three and (i) is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an educational organization described in WAC 55-01-010 (5)(b)(i).

(6) "Effective date of enrollment" means the first date, as established by the plan, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.

(7) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the plan, and for whom applicable premium payments have been made.

(8) "Family" means an individual or an individual and the individual's spouse, if not legally separated, and the individual's dependent children. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

(9) "Family dependent" means a subscriber's legal spouse, if not legally separated, or the subscriber's dependent child, who meets all eligibility requirements, is enrolled in the plan, and for whom the applicable premium has been paid.

(10) "Grievance procedure" means the formal process for resolution of problems or concerns raised by enrollees which cannot be resolved in



an informal manner to the enrollee's satisfaction. "Grievance" means a problem or concern presented for resolution through a grievance procedure.

(11) "Gross family income" means the total income of all members of an enrollee's family, regardless of whether those family members enroll in the plan. (a) For purposes of this definition, for applications for enrollment which are received by the plan on or before March 31, 1989, "income" includes but is not limited to wages and salaries, net income from rentals or self-employment, tips, interest income, dividends, royalties, public or private pensions, and Social Security benefits. (b) For purposes of this definition, for applications for enrollment which are received by the plan on or after April 1, 1989 and for premium payments which are made for coverage on or after June 1, 1989, "income" means total cash receipts before taxes from all sources, with the exceptions noted below. (i) Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which are received by the owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-Federally-funded General Assistance or General Relief money payments), and training stipends; alimony child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships and assistantships, if received as or convertible by the recipient into cash; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings. (ii) Income does not include the following types of money received: capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house or a car; tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation). Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such Federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance. (c) ((For purposes of this definition;)) "(i)Income" shall not include income ((of)) earned by dependent children, nor shall it include income of a family member who resides in another household when such income is not available to those family members seeking enrollment in the plan. (d) In the event that an item of income is received periodically, but less frequently than once per month, the latest amount received will be divided by the number of months in the period (i.e., between payments) in order to calculate an average amount per month. That monthly average will be combined with other monthly items of income to derive a monthly total, which will be used in the calculation of income as a percentage of federal poverty level. (For example, if an applicant receives quarterly interest payments in January, April, July, and October, and applies for coverage by the plan in September, the July payment will be divided by three to obtain a monthly income amount.)

(12) "Managed health care system" (or "MHCS") means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system.

(13) "Medicare" means programs established by Title XVIII of public law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(14) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their membership from one participating managed health care system to another. There shall be at least one open enrollment period of at least twenty consecutive days, at least once annually, in each site served by the plan.

(15) "Participating," when referring to a managed health care system, means one that has entered into a contract with the plan to provide covered services to enrollees. When referring to a health care provider, "participating" means one who is employed by or has entered into a contract with a participating managed health care system to provide covered services to enrollees.

(16) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which a subscriber makes to the plan on behalf of the subscriber and family dependents in consideration for enrollment in the plan.

(17) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the State of Washington.

(18) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of enrollees in the plan and in that MHCS.

(19) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which enrollees shall be entitled to receive from participating managed health care systems.

(20) "Service area" means the geographic area served by a participating managed health care system as defined in its contract with the plan.

(21) "Site" means a geographic area designated by the plan in which one or more participating managed health care systems are offered to enrollees for selection.

(22) "Subscriber" means an enrollee, or the parent or legal guardian of an enrolled dependent child, who has been designated by the plan as the individual to whom the plan and the managed health care system will issue all notices, information requests and premium bills on behalf of all enrolled family members. For purposes of Chapter 55-01 WAC, notice to a subscriber shall be considered notice to all enrolled members of the subscriber's family as well.

(23) "Subsidy" means the difference between the rate paid by the administrator, from funds appropriated from the basic health plan trust account, to a managed health care system on behalf of an enrollee and the enrollee's premium responsibility.

(24) "Washington Basic Health Plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by chapter 70.47 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.

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

**WSR 89-08-098**  
**PROPOSED RULES**  
**BOARD OF HEALTH**  
[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning transient accommodations, amending chapter 248-144 WAC;

that the agency will at 9:30, Wednesday, May 10, 1989, in the Yakima County Health District, 104 North First Street, Yakima, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.20.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989, State Board of Health, 1112 South Quince, ET-23, Olympia, WA 98504, (206) 586-0399.

Dated: April 3, 1989

By: Paul Trause  
Deputy Secretary  
for Programs

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-144 WAC, Rules and regulations for transient accommodations.

Purpose of the Rule Changes: To update chapter 248-144 WAC.

Reason These Rules are Necessary: To update minimum health and safety standards.

Statutory Authority: Chapter 70.62 RCW and RCW 43.20.050.

Summary of Rule Change: Revision to existing health standards necessary to conform with department standards and sunset review requirements. Establishes minimum health and safety standards in hotels, motels and similar accommodation facilities based upon most up-to-date information. Defines lodging units, clarifies licensing and inspection requirements, establishes safe handwashing and laundry hot water temperatures, provides for toilet, handwashing and bathing facilities and revises acceptable lighting, heating and ventilation standards.

Person or Persons Responsible for Drafting, Implementation, and Enforcement: Byron R. Plan, Section Manager, Accommodation Survey Section, mailstop ET-35, (206) 586-4415.

The rule amendments are proposed by DSHS for adoption by the State Board of Health.

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

#### AMENDATORY SECTION (Amending Order 71, filed 4/11/72)

WAC 248-144-010 PURPOSE. (~~These regulations are adopted pursuant to chapter 239, Laws of 1971 1st ex. sess., now codified as RCW 70.62.200, et seq. They are intended to provide~~) Chapter 248-144 WAC establishes the Washington state board of health minimum health and sanitation requirements for transient accommodations implementing chapter 70.62 RCW, to protect and promote the health and welfare of individuals using such accommodations. Chapter 248-144 WAC establishes uniform, statewide standards for (~~assuring adequate~~) maintenance and operation, including light, heat, ventilation, cleanliness, and sanitation (~~and maintenance in transient accommodations so as to protect and promote the health and welfare of patrons of such facilities and the general public~~). Any person operating a transient accommodation, as defined under RCW 70.62.210, shall have a current license for such accommodation from the department.

#### AMENDATORY SECTION (Amending Order 71, filed 4/11/72)

WAC 248-144-020 DEFINITIONS. (1) "~~Act~~" shall mean chapter 239, Laws of 1971 1st ex. sess) Adequate" means sufficient to meet the intended purpose and consistent with accepted public health standards, principles, or practices.

(2) "~~Department~~" shall mean the Washington state department of social and health services) Bathing facility" means a shower, bathtub, or combination bathtub shower.

(3) "~~Dormitory~~" shall mean a room containing beds, cots or other sleeping places and occupied by unrelated or separate groups and/or

individuals. Every 100 sq. ft. of usable floor space in a dormitory shall constitute a lodging unit)) Board" means the Washington state board of health established under chapter 43.20 RCW.

(4) "~~Guest~~" shall mean any person occupying a room for sleeping or lodging purposes) Compliance schedule" means a department-prepared document which lists both the violations and the time schedule the licensee shall follow in correcting the violations.

(5) "~~Health officer~~" shall mean the legally qualified physician who has been appointed as the health officer for the city, town, county or district public health department as defined in RCW 70.05.010(2), or his authorized representative)) Department" means the Washington state department of social and health services.

(6) "~~Lodging unit kitchen~~" shall mean any kitchen in a lodging unit which is made available for guests to use in preparing their own food)) Dormitory" means any room, building, or part of a building containing beds, cots, pads, or other furnishings intended for sleeping and use by a number of individuals.

(7) "~~Lodging unit~~" shall mean one or more self-contained rooms for transient occupancy including those for sleeping, sitting or cooking purposes, and designated by a number, letter or other means of identification)) Exemption" means a written authorization from the board releasing a licensee from complying with a specific rule in this chapter or allowing an optional method for meeting a specific rule when the department determines the intent of chapter 70.62 RCW and this chapter is met and the health or safety of the guests will not be jeopardized.

(8) "~~New construction~~" shall mean any new transient accommodation, addition or major structural alteration of a transient accommodation constructed after the effective date of these rules and regulations)) Feasibility survey" means an on-site visit conducted by the department and the state office of fire protection to determine if a structure proposed for use as a transient accommodation meets or could meet the board's rules concerning transient accommodations and the rules of the state office of fire protection.

(9) "~~Person~~" shall mean any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof owning and/or managing or operating a transient accommodation)) Gross floor area" means the total floor area within a lodging unit.

(10) "~~Secretary~~" shall mean the secretary of the state department of social and health services or his designee)) Guest" means any individual registering to occupy a lodging unit, excluding an individual provided the use of a lodging unit under chapter 70.54 RCW, Housing for Agricultural Workers.

(11) "~~Transient accommodation~~" shall mean any facility such as a hotel, motel, condominium, resort, rooming house or other place offering three or more lodging units to travelers and transient guests for periods of less than one month)) Homeless shelter" means any facility offering sleeping and/or eating areas for individuals on a short-term, as-needed basis not to exceed one month; except, a medical, psychological, drug/alcohol facility, or a related service is not included.

(12) "~~Travel trailer~~" or "mobile home" shall mean a vehicular portable unit located at a transient accommodation and offered by a person for occupancy as a lodging unit)) Hostel" means a transient accommodation offering dormitory or lodging units and limited services for guests on a daily or weekly basis.

(13) "~~Uniform plumbing code~~" shall mean the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, 1970 edition)) Imminent health hazard" means a condition or situation presenting a serious or life-threatening danger to a guest's health and safety.

(14) "~~Usable floor space~~" shall mean all floor space in a dormitory not occupied by closets, built-ins, toilet rooms, bath rooms, or shower rooms)) Kitchen" means an area designed and equipped for guests to prepare and cook food.

(15) "Laundry" means an area or room equipped for the cleaning and drying of bedding, linen, towels, and other items provided to the guests.

(16) "Licensee" means any person required under chapter 70.62 RCW to have a transient accommodation license.

(17) "Local health officer" means the legally qualified physician appointed to that position by a city, town, county, or district public health department as authorized under chapters 70.05 and 70.08 RCW or the authorized representative.

(18) "Lodging unit" means one self-contained unit designated by number, letter, or other means of identification.

(19) "New construction" means:

(a) The building of any new transient accommodation; or  
(b) Any construction of, or in, a building never licensed as a transient accommodation, if seeking licensure; or

(c) An addition or major structural alteration to an existing transient accommodation built or remodeled after the effective date of this chapter. Major structural alterations include construction intended to change the functional use of a unit, room, or area.

(20) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(21) "Retreat" means a transient accommodation intended to provide seclusion, meditation, contemplation, religious activities, training, or similar activities.

(22) "Rustic resort" means a rural transient accommodation lacking many modern conveniences.

(23) "Sanitary" or "sanitize" means efforts to control or limit the presence of germs, bacteria, and dirt.

(24) "Secretary" means the secretary of the state department of social and health services or authorized designee.

(25) "Self-contained unit" means an individual room or group of interconnected rooms intended for sleeping and/or cooking and/or eating purposes for rent or use by a guest.

(26) "Transient accommodation" means any facility, such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to guests for periods of less than one month.

#### NEW SECTION

WAC 248-144-031 LICENSING, ADMINISTRATION, ENFORCEMENT, EXEMPTION. (1) Licensees or prospective licensees shall:

(a) Complete and submit an application along with the appropriate fee at least thirty days before:

- (i) Opening a new transient accommodation;
- (ii) Adding new units to an existing transient accommodation; or
- (iii) Changing the license of a transient accommodation.

(b) Request the department to complete a feasibility survey before applying for a license whenever an existing structure or property was not previously used or licensed as a transient accommodation;

(c) Secure a valid license issued by the department before initially opening and by January 1 each year thereafter;

(d) Submit a license renewal with the annual fee by December 10 of each year;

(e) Conspicuously display the license in the lobby or office;

(f) Comply with a plan of corrective action if issued by the department; and

(g) Allow the department to inspect the transient accommodation at any reasonable time.

(2) Licensees may:

(a) Request, in writing, an exemption from the board if:

- (i) The health and safety of the occupant is not jeopardized;
- (ii) Strict enforcement of this chapter will create undue hardship for the licensee; and
- (iii) The department is notified in advance.

(b) Appeal decisions of the department under chapter 34.04 RCW, Administrative Procedure Act, except decisions to deny an exemption under subsection (2) of this section.

(3) Under chapter 70.62 RCW, the department shall have the authority to:

(a) Inspect transient accommodations including unoccupied lodging units:

- (i) Annually;
- (ii) As needed; and
- (iii) Upon request.

(b) Issue licenses annually upon receipt of the appropriate fee;

(c) Issue a license for the person and premises named in the application when the applicant or licensee is in compliance with:

- (i) Chapter 70.62 RCW and this chapter;
- (ii) The rules and regulations of the state director of fire protection; and
- (iii) All applicable local codes and ordinances.

(d) Respond within thirty days to application requests;

(e) Respond to complaints;

(f) Charge fees, authorized under chapters 43.20B and 70.62 RCW, to recover all or a portion of the costs of administering this chapter.

(4) The department shall have the authority to:

(a) Deny, revoke, or suspend the license of a transient accommodation which fails to comply with chapter 70.62 RCW and this chapter;

(b) Take one or more of the following enforcement actions:

- (i) Notify the licensee of violations;
- (ii) Establish a corrective action plan and compliance schedule;
- (iii) Issue a department order;
- (iv) Revoke or suspend the license; and/or
- (v) Initiate legal action.

(c) Issue a provisional license when a transient accommodation does not meet the standards in this chapter under the following conditions:

(i) The department has approved a written correction action plan, including a compliance schedule; or

(ii) An application for change of licensure of an existing, currently licensed transient accommodation is pending; or

(iii) The licensee is awaiting the board's decision regarding an exemption request; or

(iv) The licensee is awaiting the department's decision regarding an administrative decision under chapter 34.04 RCW.

#### NEW SECTION

WAC 248-144-041 SUPERVISION AND RESPONSIBILITY. Licensees shall:

(1) Comply with the requirements under chapter 70.62 RCW, Transient Accommodations—Licensing—Inspections, chapter 212-52 WAC, Transient Accommodations, Standards for Fire Protection, and this chapter;

(2) Provide supervision of the employees so the transient accommodation facility is maintained:

- (a) Clean, safe, and sanitary;
- (b) In good repair; and
- (c) Free from insects, rodents, and other pests.

(3) Consult with the department or local health officer regarding any suspected imminent health hazard.

#### NEW SECTION

WAC 248-144-051 WATER SUPPLY AND TEMPERATURE CONTROL. Licensees shall:

(1) Provide a water supply system conforming to state board of health standards for public water systems, chapter 248-54 WAC;

(2) Regulate hot water to a temperature of at least 110 degrees Fahrenheit, but not more than 130 degrees Fahrenheit;

(3) When laundry facilities are present, maintain wash water temperature of at least 130 degrees Fahrenheit unless at least 110 degrees Fahrenheit water is used in combination with:

- (a) An appropriate low temperature detergent and effective use of a chemical disinfectant; or
- (b) An industrial-type washing machine with multiple rinse cycles.

(4) Label nonpotable water supplies used for irrigation, fire protection, and/or other purposes at all accessible connections and valves.

#### NEW SECTION

WAC 248-144-061 SEWAGE. Licensees shall:

(1) Ensure all liquid waste is discharged to a public sewage system or a disposal system approved under chapter 248-96 WAC;

(2) Maintain the sewage disposal system to prevent creation of a nuisance or public health hazard; and

(3) Ensure alterations, repairs, or replacement of a sewage disposal system are in compliance with requirements of the board and the local health officer.

#### NEW SECTION

WAC 248-144-071 SWIMMING POOLS, SPAS, HOT TUBS, WADING POOLS, BATHING BEACHES. Licensees shall comply with chapter 70.90 RCW governing the safety and sanitation of swimming pools, spas, hot tubs, wading pools, and bathing beaches.

#### NEW SECTION

WAC 248-144-081 REFUSE AND SOLID WASTE. Licensees shall:

(1) Provide at least one washable, leakproof refuse container in each lodging unit;

(2) Ensure all refuse is:

- (a) Handled in a manner preventing unsanitary or unsafe conditions and nuisances;

(b) Collected at least twice a week or more often as necessary to maintain a clean and sanitary environment in lodging units and areas used by guests;

(c) Stored following collection in washable, leakproof, and covered containers outside the lodging units until removed for disposal; and

(d) Removed and disposed under applicable state and local ordinances.

**NEW SECTION**

WAC 248-144-091 CONSTRUCTION AND MAINTENANCE. Licensees and prospective licensees shall ensure:

(1) All new construction meets the requirements of:

(a) Chapter 70.62 RCW and this chapter as determined by the department;

(b) Chapter 19.27 RCW state building code; and

(c) All other applicable city and county codes and ordinances.

(2) All buildings, facilities, fixtures, and furnishings are structurally sound, safe, clean, and sanitary.

**NEW SECTION**

WAC 248-144-101 LODGING UNITS. Licensees shall provide lodging units with:

(1) At least fifty square feet of gross floor area for each guest. The licensee shall exclude space with less than a five-foot ceiling when calculating this area requirement.

(2) Beds or sleeping areas spaced according to the following requirements:

(a) An area adequate to move easily between beds, cots, mats, or mattresses; and

(b) A minimum of three feet of clear vertical space between each bed and the ceiling.

(3) Floors and walls which are:

(a) Cleanable;

(b) Kept in good repair, and

(c) Cleaned as necessary.

**NEW SECTION**

WAC 248-144-111 TOILET, HANDWASHING, AND BATHING FACILITIES. (1) Licensees shall provide adequate toilet, handwashing, and bathing facilities for guests.

(2) Licensees shall:

(a) Maintain clean and sanitary toilets, handwashing sinks, and bathing facilities including the floors, walls, ceilings, and fixtures;

(b) Maintain an uncarpeted area around the toilet and adjacent to a bathtub and/or shower;

(c) Ensure all fixtures, drains, and bathing facilities are safe and work properly;

(d) Provide one toilet, handwashing sink, and bathing facility for every fifteen or fewer guests who do not have such facilities in their lodging unit;

(e) Provide for privacy in toilet and bathing facilities;

(f) Provide water flush toilets unless the department or a local health officer approved an alternative device;

(g) Provide handwashing sinks or equivalent facilities with acceptable single-use drying devices within, or adjacent to, each common toilet room;

(h) Provide and conveniently locate toilet tissue for each toilet;

(i) Provide soap for each handwashing and bathing facility;

(j) Provide clean towels, washcloths, and floor mats for guests between occupancies and at least twice a week for guests who stay longer than three days; and

(k) Assure clean towels, washcloths, and floor mats stored in lodging units are kept off the floor and in a clean area.

**NEW SECTION**

WAC 248-144-121 LODGING UNIT KITCHENS. (1) Licensees offering kitchens in lodging units shall provide each kitchen with:

(a) Clean and durable floors and walls;

(b) Adequate ventilation required under WAC 248-144-151;

(c) A sink, other than the handwashing sink, suitable for washing dishes;

(d) Hot running water under WAC 248-144-051;

(e) A refrigeration device capable of maintaining a temperature of 45 degrees Fahrenheit or lower;

(f) Cooking equipment acceptable to the state director of fire protection;

(g) A clean food storage area;

(h) Tables, counters, chairs, or equivalent; or

(i) A washable, leakproof waste food container.

(2) Licensees providing eating and/or cooking utensils shall provide guests with single-use disposable or multiple-use clean and sanitized utensils in good condition and free from cracks.

**NEW SECTION**

WAC 248-144-131 HEATING AND COOLING. (1) Licensees shall provide a safe, adequate source of heat capable of maintaining an ambient air temperature of at least 65 degrees Fahrenheit in each lodging unit.

(2) Licensees providing a cooling system shall maintain a safe, clean, adequate system in good working condition.

**NEW SECTION**

WAC 248-144-141 LIGHTING. (1) Licensees shall provide a lighting system to maintain a minimum light intensity adequate for the guest's safety and cleaning by staff and measured in foot candles at a height of three feet above the floor as follows:

Lodging Unit	10 Foot Candles
Toilet and Bathing Facilities	20 Foot Candles
Lodging Unit Kitchen	20 Foot Candles
Laundry Room Work Areas	30 Foot Candles
Corridors, Stairways, and Entryways	5 Foot Candles
Elevators, Walkways	5 Foot Candles
Swimming Pools	As required under chapter 248-98 WAC

(2) Licensees shall provide all parking lots and exterior passages with a minimum light intensity of two foot candles measured three feet above the ground.

**NEW SECTION**

WAC 248-144-151 VENTILATION. (1) Licensees shall provide ventilation in all lodging units, kitchen areas, bathrooms, toilet rooms, and laundry rooms.

(2) Licensees providing only natural ventilation in lodging units shall have windows, vents, and/or ducts opening directly to the out-of-doors, sufficient to allow at least two air exchanges per hour.

(3) Licensees providing only mechanical ventilation systems in lodging units shall:

(a) Install a system capable of supplying at least two air exchanges per hour to each lodging unit and all corridors; and

(b) Maintain a system circulating air to and from out-of-doors.

(4) Licensees providing only natural ventilation in kitchen areas, bathrooms, toilet rooms, and laundry rooms shall have windows, skylights, or ceiling vents opening directly to the out-of-doors sufficient to allow five air exchanges per hour.

(5) Licensees providing only mechanical ventilation in kitchen areas, bathrooms, toilet rooms, and laundry rooms shall:

(a) Install a system capable of at least five air exchanges per hour; and

(b) Maintain a system circulating air to and from the out-of-doors.

**NEW SECTION**

WAC 248-144-161 BEDS AND BEDDING. Licensees providing beds and/or bedding shall:

(1) Provide clean, sanitary bedding in good repair;

(2) Maintain clean and safe beds, cots, bunks, or other furniture for sleeping;

(3) Supply each bed, cot, or bunk with a mattress or pad, top and bottom sheets, mattress pads, pillows and pillowcases, and blankets unless the facility is:

(a) A rustic resort;

(b) A homeless shelter; or

(c) A hostel.

(4) Provide clean spreads, blankets, and mattress pads as needed;

(5) Provide clean pillowcases and sheets for guests:

(a) Between occupancies; and

(b) At least twice a week for guests staying longer than three days.

(6) Ensure clean bedding kept in the lodging units is stored off the floor and in a clean area.

#### NEW SECTION

WAC 248-144-171 **FOOD AND BEVERAGE SERVICES.** (1) Licensees shall ensure food provided to guests is prepared and served under:

- (a) Chapter 248-84 WAC, State Board of Health Standards for Food Service Sanitation and local ordinances;
- (b) Chapter 248-86 WAC, State Board of Health Standards for Food and Beverage Service Workers Permits; and
- (c) Chapter 248-87 WAC, State Board of Health Standards for Food Workers.

(2) Between guest occupancies, licensees providing multiple-use or reusable drinking glasses, cups, ice buckets, and other food utensils shall ensure the utilities are:

- (a) Washed and sanitized outside the lodging unit, toilet, or bathing facilities; or
  - (b) Washed and sanitized in an approved lodging unit kitchen defined under WAC 248-144-121;
  - (c) Handled and stored in a safe and sanitary manner;
  - (d) Protected from contamination; and
  - (e) Maintained in good repair.
- (3) Licensees shall:
- (a) Ensure single-use drinking glasses, cups, ice buckets, and other food utensils are discarded after each guest occupancy;
  - (b) Clean and sanitize ice machines at least twice a year and as needed;
  - (c) Store and dispense ice provided for guests in a sanitary manner including sanitization of the ice scoop when used;
  - (d) Control or eliminate the dispensing of unprotected bulk ice by January 1, 1995; and
  - (e) Clean, maintain, and properly adjust drinking fountains.

#### NEW SECTION

WAC 248-144-181 **TRAVEL TRAILERS AND MOBILE HOMES.** Licensees providing travel trailers and/or mobile homes as lodging units shall:

- (1) Comply with chapters 296-150A and 296-150B WAC rules and regulations of the department of labor and industries for factory-built housing, mobile homes, commercial coaches, and recreational vehicles; and
- (2) Ensure all travel trailers and mobile homes used as lodging units are connected to approved water, sewer, and electrical utilities.

#### NEW SECTION

WAC 248-144-191 **LAUNDRY.** Licensees shall:

- (1) Provide a means for cleaning and sanitizing bedding, linens, towels, washcloths, and other items intended for guest use by:
  - (a) Maintaining a laundry under WAC 248-144-051 and 248-144-191; or
  - (b) Sending items to a commercial laundry or other laundry meeting requirements under WAC 248-144-051 and this section.
- (2) Store the clean and sanitized bedding, linens, towels, washcloths, and other items:
  - (a) In an area designated for clean items only;
  - (b) Off the floor;
  - (c) Protected from contamination; and
  - (d) Without access to guests, pets, or other animals.
- (3) Provide a means for handling, transporting, and separating soiled bedding, linens, towels, washcloths, and other items to prevent contamination of clean items.

#### NEW SECTION

WAC 248-144-201 **HOUSEKEEPING EQUIPMENT AND PROCEDURES.** Licensees shall:

- (1) Establish policies and procedures requiring all employees cleaning and servicing lodging units and other units used by guests to:
  - (a) Exercise good personal hygiene; and
  - (b) Properly store and label all cleaning products.
- (2) Maintain all facilities in a sanitary and safe condition.

#### NEW SECTION

WAC 248-144-211 **SAFETY, CHEMICAL, AND PHYSICAL HAZARDS.** Licensees shall:

- (1) Ensure all chemical agents, such as cleaners, solvents, disinfectants, and insecticides, except for small amounts of household cleaners stored in kitchen units, are:
  - (a) Kept isolated from guests;
  - (b) Stored to prevent contamination of clothing, toweling, and bedding materials; and
  - (c) Used under the manufacturer's recommendations.
- (2) Provide adequate and safe handrailing for all stairways, porches, and balconies.
- (3) Ensure every gas-fired and oil-fired space heater and/or water heater is vented to the exterior of the building.
- (4) Eliminate known physical hazards.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 248-144-030 LICENSING AND INSPECTION OF TRANSIENT ACCOMMODATIONS.
- WAC 248-144-035 COMPLIANCE WITH FIRE PROTECTION REQUIREMENTS.
- WAC 248-144-040 RESPONSIBILITY OF MANAGEMENT.
- WAC 248-144-050 BUILDING CONSTRUCTION AND MAINTENANCE.
- WAC 248-144-060 DORMITORY SPACE.
- WAC 248-144-070 WATER SUPPLY.
- WAC 248-144-080 TOILET AND BATH FACILITIES.
- WAC 248-144-090 VENTILATION.
- WAC 248-144-100 HEATING.
- WAC 248-144-110 LIGHTING.
- WAC 248-144-120 FOOD AND BEVERAGE SERVICE.
- WAC 248-144-130 LODGING UNIT KITCHENS.
- WAC 248-144-140 INSECT AND RODENT CONTROL.
- WAC 248-144-150 PLUMBING.
- WAC 248-144-160 SOLID WASTE.
- WAC 248-144-170 SEWAGE DISPOSAL.
- WAC 248-144-180 TRAVEL TRAILERS AND MOBILE HOMES.
- WAC 248-144-190 SWIMMING POOLS.
- WAC 248-144-200 PETS.
- WAC 248-144-210 BEDDING AND LINEN.
- WAC 248-144-220 LAUNDRY.
- WAC 248-144-230 HOUSEKEEPING EQUIPMENT AND PROCEDURES.
- WAC 248-144-240 CHEMICAL AND PHYSICAL HAZARDS.

#### **WSR 89-08-099**

#### **PROPOSED RULES DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

**(Public Assistance)**

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services, intends to adopt, amend, or repeal rules concerning Standards—Eligibility, amending chapter 388-29 WAC;

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 74.08.090.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 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: April 5, 1989

By: Leslie F. James, Director  
Administrative Services

#### STATEMENT OF PURPOSE

Re: WAC 388-29-001, 388-29-020 and 388-22-030.

WAC 388-29-001 and 388-29-020, effective January 1, 1989, department policy consolidated assistance units (WAC 388-24-050) where children receive assistance under one relative caretaker or relative married couple. These sections need to reflect that change; and WAC 388-22-030, the definition chapter is out of date and needs to meet current need. All other changes are editorial.

Statutory Authority: RCW 74.08.090.

Summary of Rule change: Modify the definition and grant relationship language to be consistent with the policy of consolidated assistance units; delete and modify chapter 388-22 WAC to reflect current need and policy definitions; and other changes are editorial.

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

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

#### AMENDATORY SECTION (Amending Order 2677, filed 9/1/88)

WAC 388-29-001 DEFINITIONS. (1) "Assistance unit" means a person or ((members of a family eligible)) group of persons required to be included ((in a single categorical grant)) together when determining eligibility for an assistance program.

(2) "Board and room" means a living arrangement in which an individual purchases ((their)) food, shelter, and household maintenance requirements from a single vendor.

(3) Boarding home" means any place where one or more persons purchases ((their)) food, shelter, and household maintenance requirements from a single vendor.

(4) "Consolidated standards of need" means combining individual requirement amounts into a single dollar value.

(5) "Household maintenance" means the requirements for space heating, water heating, cooking, lights, refrigeration, household supplies, garbage pickup, sewage disposal, and water.

(6) "Life estate" means the right to use property for the duration of a specific person's life time.

(7) "Living in own home" means a living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.

(8) "Maximum" means no incremental increase in the payment standard for additional members of an assistance unit beyond a designated size.

(9) "Medical institution" means an institution where professional personnel provide medical, nursing, or convalescent care.

(10) "Need" means the difference between the payment standard and the applicant's or recipient's available income, if any.

(11) "Payment standard" means the amount to which the applicant's or recipient's available income and resources are compared in determining financial eligibility.

(12) "Rateable reduction" means the percentage difference between the need standard and the payment standard.

(13) "Requirement" means an item or service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential to some clients under specified conditions.

(b) "Basic requirements" means food, clothing, shelter, transportation, household maintenance, personal maintenance, and necessary incidentals.

(14) "Standards of need" or "need standard" means the income required by an applicant or recipient to maintain a minimum and adequate level of living.

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

WAC 388-29-020 STANDARDS OF ASSISTANCE—~~((FAMILY))~~ GRANT RELATIONSHIPS. (1) ~~((The law specifies who is eligible to receive assistance in his or her own right. The law does not always specify, except in general terms, which other persons may be included in the grant made to the primary person:))~~ The department ~~((therefore, defines those who in addition to the primary person may have their requirements computed with the requirements of the primary applicant. Such family groupings are called "A"))~~ shall determine which persons to include in an assistance unit ~~((S<sup>A</sup>)).~~

(2) When creating the assistance unit, the ~~((persons whose needs are included in the need of the primary applicant are those))~~ department shall consider:

(a) Household members for whose support the applicant is legally responsible; and

(b) Categorical program requirements.

~~((2))~~ (3) ~~((If an individual is))~~ The department shall not include a person receiving benefits under Title XVI of the Social Security Act ~~((; such individual shall not be regarded as a member of a family or))~~ in an aid to families with dependent children or family independence program assistance unit ~~((for purposes of determining eligibility and amount of an aid to families with dependent children grant)).~~

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 1521, filed 7/9/80)

WAC 388-22-030 DEFINITIONS. This section ~~((is a compilation of the))~~ contains definitions of words and phrases extensively used in the department's rules concerning the financial aid programs. ~~((Their collection in one section tends to ensure a more exact understanding of the word or concept and to avoid repetition of the definition))~~ This section provides a central location for definitions while eliminating the need to repeat the same in each WAC chapter. Related definitions ~~((have been))~~ are grouped under the key word.

For ~~((definitions of terms used in the))~~ medical assistance—Title XIX and medical services (fully state financed) ~~((programs))~~ program definitions, see chapter 388-80 WAC. For ~~((definitions of terms used in the))~~ food stamp program definitions, see chapter ~~((388-54))~~ 388-49 WAC.

(1) "Adequate consideration" means ~~((that))~~ the reasonable value of the goods or services received in exchange for ~~((the))~~ transferred property approximates the reasonable value of the property transferred.

(2) "Adult" means a person eighteen years of age or older.

(3) ("Apartment" means two or more rooms with cooking and sleeping facilities which is a unit of a larger structure.

(4) "Applicant" (~~shall~~) means any (~~person or~~) member(s) of (~~a family~~) an assistance unit by (~~whom~~) or for whom a request for assistance has been made.

(5) (4) "Application" means a written request for financial assistance or a written or oral request for medical or social service, provided by the department of social and health services, made by a person in (~~his/her~~) the person's own behalf or in behalf of another person.

(6) (5) "Assistance unit" means a person or (~~members~~) group of (~~a family unit who are eligible~~) persons required to be included (~~in a single categorical grant~~) together when determining eligibility for an assistance program.

(7) (6) "Authorization" means an official approval of a departmental action(-).

(a) "Authorization date" means the date the prescribed form authorizing assistance (~~for a new, reopened or reinstated case~~) is signed.

(b) "Authorization of grant" means attesting the applicant's eligibility for assistance (~~in an amount as determined by his circumstances and department standards~~) and giving authority to make payment accordingly.

(8) (7) "Automobile" means a motorized vehicle.

(9) (8) "Board and room" means a living arrangement (~~in which an individual~~) where a person purchases (~~his~~) food, shelter, and household maintenance (~~requirements~~) from one vendor.

(10) (9) "Boarding home" means (~~any~~) a place (~~in which one or more~~) where a person(s) purchases (~~his~~) food, shelter, and household maintenance (~~requirements~~) on a board and room basis.

(11) (10) "CFR" means the code of federal regulations (~~and is a codification of the general and permanent rules published in the federal register~~) established by the (~~executive departments and agencies of the~~) federal government.

(12) (11) "Cash savings" means money which is not classified as income.

(13) (12) "Certification date" means the date the worker certifies changes in a (~~recipient's circumstances~~) client's case and authorizes (~~an action affecting~~) a change in grant.

(14) (13) "Child" or "minor child" means a person under 18 years of age.

(15) (14) "Chore services" (~~are those tasks specifically related to~~) means household, yard, and/or personal care services which assist a person in (~~his/her~~) the person's own home.

(16) (15) "Client" means an applicant and/or recipient of financial, medical and/or social services.

(17) (16) "Continuing assistance" means payments to persons who (~~presumably will be~~) are eligible for and receive( ~~from the date of authorization~~) regular monthly grants on a prepayment basis. (~~Continuing assistance includes federal aid and continuing general assistance grants to unemployable persons.~~)

(18) "Dependent child" means a child who is not self-supporting, married, or a member of the armed forces of the United States. Receiving public assistance does not constitute self-support.

(19) "Disability." (See WAC 388-93-025.)

(20) "Disaster assistance" means a financial grant or temporary housing (~~awarded~~) for eligible victims of (~~a gubernatorially proclaimed and/or presidentially~~) an emergency or major disaster as declared (~~emergency~~) by the governor or (~~major disaster~~) president.

(21) "Effective date" means the date eligibility for a grant begins (~~or eligibility~~), changes, or ends.

(22) "Encumbrances" means any mortgage, claim, lien, charge or other legally enforceable liability, such as past due taxes, (~~attaching~~) attached to and binding (~~upon~~) on property.

(23) "Entitlement" means any form of benefit, such as compensation, insurance, pension retirement, military, bonus, allotment, allowance payable in cash or (~~its equivalent in which an applicant/recipient~~) in-kind in which a client may have a claim or (~~interests recognized by law~~) interest.

(24) "Equity" means quick-sale value less (~~legally enforceable~~) encumbrances.

(25) "Estate" means all real and personal property (~~owned by~~) that a deceased person has a right or interest as of the date of (~~his~~) death.

(26) "Exception to policy" means (~~approval~~) a waiver by the secretary's designee to (~~waive~~) a (~~rule in Title 388 WAC~~) department policy for a specific client (~~who is~~) experiencing an undue hardship

(~~as a result~~) because of (~~that rule~~) the policy. (~~Such a~~) The waiver may not be contrary to law.

(27) "Fair hearing" means an administrative proceeding (~~by which the department hears~~) to hear and (~~decides the~~) decide a client appeal of (~~an applicant/recipient from an~~) a department action or decision (~~of the department~~).

(28) "Federal aid" means the assistance grant programs (~~for which funds are received~~) funded in part by (~~the state from~~) the (~~U.S.~~) United States Government.

(29) "Food stamp program(-)" means the program administered by the department in cooperation with the U.S. Department of Agriculture (~~under which~~) to certify eligible households (~~are certified~~) to receive food coupons (~~to be~~) used to buy food.

(30) "Fraud."

(a) For financial aid programs, fraud means a deliberate, intentional and willful act with the specific purpose of deceiving the department with respect to any material fact, condition or circumstance affecting eligibility or need(-).

(b) (~~For definition of~~) "Food stamp fraud(-)" (~~see~~) is defined in chapter (~~388-54~~) 388-49 WAC.

(31) "Funeral" means the (~~proper preparation and~~) care of the remains of a deceased person with (~~needed facilities and~~), appropriate (~~memorial~~) services including necessary costs of, ~~needed facilities~~, a lot or cremation, and (~~all services related to the interment and~~) the customary memorial marking of a grave.

(32) "General assistance(~~-continuing~~-GAI)" means state-funded assistance to (~~unemployable~~) eligible pregnant or incapacitated persons who are not eligible for or not receiving federal aid assistance.

(33) (~~General assistance noncontinuing~~-GAN) is temporary assistance for persons who are not eligible for or receiving federal aid assistance.

(34) "Grant" means an entitlement awarded to (~~an applicant/recipient~~) a client and paid (~~in the form of a~~) by state warrants redeemable at par.

(a) "Grant adjustment" means postpayment of the difference between the amount (~~for which the recipient~~) a client was eligible for in a given period and the amount already paid.

(b) "Initial grant" means the payment due from date of eligibility to the (~~payment~~) date of the first regular grant.

(c) "Minimum grant" means (~~one dollar~~) ten dollars, unless a court decision requires payment of a smaller amount, or the grant would have exceeded ten dollars prior to applying a mandatory overpayment deduction.

(d) "One-time grant" means (~~one~~) a payment supplementing or replacing a regular grant.

(e) "Regular grant" means the monthly prepayment of assistance on a continuing basis.

(35) (33) "Grantee" means the person or persons to or for whom assistance is paid(-).

(36) "Homemaker services" are services provided by an employee of the agency to individuals and families in their own homes or in special group situations outside their homes which will help individuals overcome specific and temporary barriers to maintaining, strengthening and safeguarding their functioning in the home).

(37) (34) "House" means a separate structure of one or more rooms.

(38) (35) "Household maintenance" means the requirements for space heating, water heating, cooking, lights, (~~and~~) refrigeration, household supplies, garbage (~~and~~), sewage disposal, and water.

(39) (36) "Income" means any appreciable gain in real or personal property (cash or in-kind) received by (~~an applicant/recipient on or after the first of~~) a client during the month (~~in~~) for which eligibility is determined, and (~~which~~) that can be applied toward (~~meeting~~) the (~~requirement~~) needs of the (~~applicant and his dependents, either directly or by conversion into money or its equivalent~~) assistance unit.

(a) "Cash income" means income in the form of money, bank notes, checks or any other readily liquidated form (~~paid and received as money~~).

(b) "Earned income" means income in cash or in-kind earned as wages, salary, commissions or profit from activities in which the individual is engaged as a self-employed person or as an employee.

(c) "Exempt income" means net income which is not deducted from the cost of requirements to determine need.

(d) "Income(=) in-kind" means income in the form of a requirement which contributes appreciably toward meeting the need for the

requirement. Income(=) in-kind shall be evaluated in terms of its cash equivalent ((in accordance with)) under WAC 388-28-600.

(e) "Net income" means gross income less cost of producing or maintaining the income.

(f) "Nonexempt income" means net income which is deducted from the cost of requirements to determine need.

(g) "Recurrent income" means income which can be predicted to occur at regular intervals.

~~((39))~~ (37) "Incapacity" (see WAC ~~((388-24-060))~~ 388-24-065 for AFDC and WAC 388-37-030 and 388-37-032 for GA-U).

~~((40))~~ (38) "Inquiry" means a request for information about the department and/or the services offered by the department.

~~((41))~~ (39) "Institution" means a treatment facility within which an individual receives professional care specific to that facility(=).

(a) "Institution-medical" provides medical, nursing or convalescent care by professional personnel.

(b) "Institution-private" is operated by nongovernmental authority by private interests.

(c) "Institution-public" is supported by public funds and administered by a governmental agency.

(d) "Institutional services" are those items and services furnished to individuals in a particular institution.

(e) "Nursing home" means a public facility or private licensed facility certified by the department to provide skilled nursing and/or intermediate care.

~~((42))~~ (40) "Joint account" means a numbered account within a financial institution which is registered to two or more parties and is accessible to each party for withdrawal of a cash resource (see WAC ~~((388-28-430(2)(b)(ii)))~~ 388-28-430(2)(a)).

~~((43))~~ (41) "Living in own home" means a living arrangement ((not involving)) other than a boarding ((and rooming, or care in a)) home, hospital, nursing home, or other institution.

~~((44))~~ (42) "Marketable securities" means stocks, bonds, mortgages, and all other forms of negotiable securities.

~~((45))~~ (43) "Minor" ((or "minor child")) means a person under eighteen years of age.

~~((46))~~ (44) "Need" is the difference between the ((applicant's or recipient's)) assistance unit's financial requirements ((for the assistance unit as measured)), by ((the)) departmental standards ((of the department)), and the value of all ((nonexempt resources and)) non-exempt net income and resources received by or available to the assistance unit.

~~((47))~~ (45) "Need under normal conditions of living" means the Washington state gross median income adjusted for family size as promulgated by the secretary of HEW, under the authority granted by Title XX of the Social Security Act minus other income during a period of time when not receiving public assistance.

~~((48))~~ (46) "Overpayment" means any assistance paid to ((a person)) an assistance unit(=) who is not eligible) where:

(a) Eligibility for the payment did not exist; or

(b) Assistance paid ((to an eligible person (assistance unit))) was in excess of need.

~~((49))~~ (47) "Payee" means the person in whose name a warrant or check is issued.

~~((50))~~ (48) "Permanent and total disability" means ((that the individual has some permanent physical/mental impairment disease or loss that substantially precludes him/her from engaging in a useful occupation within his/her competence to perform such as holding a substantially gainful job or homemaking (see WAC 388-93-025)) the inability to do any substantial gainful activity because of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for at least twelve consecutive months.

~~((51))~~ (49) "Property" means all resources and/or income possessed by ((an applicant or a recipient)) a client.

(a) "Personal property" means any form of property which is not real property.

(b) "Real property" is land, buildings thereon and fixtures permanently attached to such buildings. Growing crops are included. Any structure used as a dwelling shall be considered as real property.

(c) "Transfer of property" means a conveyance of title to, or any interest in, property from one party to another through a bill of sale, deed, or any other instrument conveying the interest in property.

(d) "Used and useful property" means property which currently serves a practical purpose for ((an applicant/recipient)) a client.

~~((52))~~ (50) "Protective payment" means a ((cash public assistance)) grant payment to an individual ((m)) on behalf of an eligible

recipient ((who, without good cause, refuses to cooperate with the office of support enforcement, who is certified to the work incentive (WIN) program, and refuses to participate in it, or who refuses to accept a bona fide offer of employment, or who demonstrates an inability to manage his/her grant funds, or the mismanagement of a caretaker relative's grant funds is such that the funds have not been nor are they currently being used in the best interest of the child)).

~~((53))~~ (51) "Psychiatric facility" means an institution ((which is)) legally qualified to administer psychiatric inpatient treatment.

~~((54))~~ (52) "Public assistance" means public aid to persons in need thereof for any cause including services, medical care, assistance grants, disbursing orders, and work relief((, general assistance and federal aid assistance)).

~~((55))~~ (53) "Recipient" means any person within an assistance unit receiving assistance ((and in addition those dependents whose needs are included in the recipient's assistance)).

~~((56))~~ (54) "Reinstate" means an authorization to resume payment of a grant from the category in which payment was previously suspended.

~~((57))~~ (55) "Requirement" means an item of maintenance or a service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential for some clients under specified conditions. See WAC 388-29-150 through 388-29-270.

(b) "Basic requirements" means the needs essential to all persons ((=)); food, clothing, personal maintenance and necessary incidentals, shelter and household maintenance.

~~((58))~~ (56) "Resource" means ((any)) an asset, tangible or intangible, owned by or available to ((an applicant when he/she applies for assistance)) a client which can be applied toward meeting financial need, either directly or by conversion into money or its equivalent. Any ((property)) resource obtained on or after the first of the month ((within)) in which eligibility is determined is called "income(=)" ((except for nonrecurring lump sum payments as specified in WAC 388-28-440)).

(a) "Exempt resource" is a resource which by ((law or rule of the department does)) policy is not ((make the owner ineligible, nor is its value used)) considered in computing financial need.

(b) "Nonexempt resource" means a resource which is not exempt ((by law or policy of the department)), and the value of which is used to determine financial need.

~~((59))~~ (57) "Restitution" means repayment to the state of assistance paid contrary to law.

~~((60))~~ (58) "Separate property" means real or personal property which was acquired by either spouse before marriage, or as a result of gift or inheritance, or was acquired and paid for entirely out of income from separate property.

~~((61))~~ (59) "Statements in support of application" means any form((s)) or document((s)) required under department regulations.

~~((62))~~ (60) "Suspension" means a temporary discontinuance of a grant payment.

~~((63))~~ (61) "Terminate" means discontinuance of payment or ((termination of)) suspension status.

~~((64))~~ (62) "Transfer" means reassignment of a case record from one CSO to another ((which includes all administrative functions necessary to recompute and adjust a grant)) in accordance with a ((recipient's permanent)) client's change of residence.

~~((65))~~ (63) "Unmarried parents" means a man and a woman not legally married who are the natural parents of the same child.

~~((66))~~ (64) "Value" means the worth of an item in money or goods at a certain time.

(a) "Ceiling value" means the limitation established by the department on the gross market value of nonexempt property.

(b) "Fair market value" means the price at which a seller willing, but not required to sell, might sell to a purchaser, willing but not required to purchase.

(c) "Quick-sale value" or "forced-sale value" is the value at which property can be converted into cash almost immediately, and without waiting for "the best offer."

~~((67))~~ (65) "Vendor payment" means an authorized payment to an individual, corporation or agency for goods furnished or services rendered to an individual eligible for public assistance.

~~((68))~~ (66) "Vocational training" means an organized curriculum in a school ((or)), training unit, or ((an organized)) training program under recognized sponsorship with a specific vocational training objective.



~~((69))~~ (67) "Warrant" means the state treasurer's warrant issued in payment of a grant.

~~((70))~~ (68) "Warrant register" means the ~~((list(s)))~~ list of warrants issued specifying payee's name, amount of payment, warrant number, and for each AFDC payment ~~((of))~~ the number of matchable persons whose need is being met by the grant.

(a) "Regular warrant register" means the list of regular grants paid.

(b) "Supplemental warrant register" means the list of initial, adjusting and one-time grants paid((

~~(71) "Work incentive program" or "WIN" means a program authorized by the Social Security Act to facilitate the placement of AFDC recipients in the work force through employment or employment training incentive positions. It is jointly administered by the department of social and health services (DSHS) and the department of employment security (DES):~~

~~(a) "Registration" means the process whereby an AFDC applicant/recipient signs a completed registration card.~~

~~(b) "Certification" means a written statement by DSHS to DES that requested self-support services are provided or arranged for a specific participant and that the individual is ready for employment or training, or that no self-support services are needed and that the individual is at the time ready for employment and training.~~

~~(c) "Deregistration" means the removal of an individual from the WIN program upon the administrative decision of DES)).~~

**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 89-08-100**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed April 5, 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 388-49-450 Income—Earned.  
 Amd WAC 388-49-470 Income—Exclusions;

that the agency will at 10:00 a.m., Tuesday, May 9, 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 May 10, 1989.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is chapter 74.04 RCW.

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: March 30, 1989  
 By: Leslie F. James, Director  
 Administrative Services

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-49-450 and 388-49-470.

Purpose of the Rule Change: To add a new income exclusion to the food stamp program.

Changes are Necessary: To implement a portion of the Hunger Prevention Act of 1988.

Statutory Authority: RCW 74.04.510.

Summary of Rule Change: Excludes earned income credit as income.

Person Responsible for Rule Drafting and Implementation: Dan Ohlson, Community Services Program Manager, Division of Income Assistance, OB-31C, 753-1354.

The rules are necessary as a result of federal law, Hunger Prevention Act of 1988.

AMENDATORY SECTION (Amending Order 2762, filed 2/13/89)

WAC 388-49-450 INCOME—EARNED. (1) The department shall consider the following as earned income:

- (a) Wages and salaries;
  - (b) Gross income from self-employment, including total gain from the sale of any capital goods or equipment related to the business, and excluding the cost of doing business. Self-employment income includes:
    - (i) Income from rental property if a household member is managing the property an average of twenty hours or more a week; and
    - (ii) Payments from a roomer; and
    - (iii) Payments from a boarder except for child foster care payments.
  - (c) Training allowances from vocational and rehabilitative programs:
    - (i) Recognized by federal, state, or local governments; and
    - (ii) Are not a reimbursement.
  - (d) Payments under Title I of the Domestic Volunteer Service Act;
  - (e) Advance on wages;
  - (f) Earnings by persons nineteen years of age and older from on-the-job training programs under JTPA;
  - (g) State and federal work study funds;
  - (h) ~~(EIC received regularly;~~
  - ~~((f)))~~ (i) Military basic allowance for quarters and basic allowance for subsistence in lieu of provided housing and/or food.
- (2) The department shall verify gross nonexempt earned income except for expedited service households:
- (a) Prior to initial certification;
  - (b) At reapplication if amount has changed more than twenty-five dollars; and
  - (c) On a monthly basis for households subject to monthly reporting.

AMENDATORY SECTION (Amending Order 2716, filed 10/19/88)

WAC 388-49-470 INCOME—EXCLUSIONS. (1) The department shall exclude the following income:

- (a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source;
- (b) Any income specifically excluded by any other federal statute from consideration as income in the food stamp program;
- (c) The earned income of children who are:
  - (i) Members of the household,
  - (ii) Under eighteen years of age, and
  - (iii) Attending school at least half time.
- (d) Infrequent or irregular income received during a three-month period that:

- (i) Cannot be reasonably anticipated as available, and
- (ii) Shall not exceed thirty dollars for all household members.
- (e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;
- (f) Nonrecurring lump sum payments;
- (g) The cost of producing self-employment income;
- (h) Financial aid received under Title IV of the Higher Education Act designated by the school for:
  - (i) Tuition,
  - (ii) Fees (including equipment and material),
  - (iii) Books,
  - (iv) Supplies,
  - (v) Transportation, and
  - (vi) Miscellaneous personal expenses as determined by the institution.
- (i) Other federal financial aid designated by the school for:
  - (i) Tuition, and
  - (ii) Mandatory fees.
- (j) Nonfederal financial aid designated by the school for:
  - (i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and
  - (ii) Other earmarked educational expenses such as transportation, supplies, textbooks, and child care.
- (k) Reimbursements for past or future expenses to the extent the reimbursements do not:
  - (i) Exceed the actual expense, and
  - (ii) Represent a gain or benefit to the household.
- (l) Any gain or benefit not in money;
- (m) Vendor payments as defined in WAC 388-49-020;
- (n) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;
- (o) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;
- (p) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

Number in Grant Assistance Unit	Energy Exclusion
1	\$30
2	39
3	46
4	56
5	63
6	72
7	84
8 or more	92

- (q) Money specified by court order or other legally binding agreement to go directly to a third-party beneficiary rather than to the household;
- (r) Support payments not required by a court order or other legally binding agreement paid directly to a third party rather than to the household;
  - (s) Payments from the individual and family grant program;
  - (t) Public assistance payments when they are:
    - (i) Over and above the regular warrant amount; and
    - (ii) Not normally a part of the regular warrant; and
    - (iii) Paid directly to a third party on behalf of the household.
  - (u) Earnings from on-the-job training programs under the Job Training Partnership Act by household members:
    - (i) Under 19 years of age; and
    - (ii) Under parental control.
  - (v) Cash donations based upon need:
    - (i) Received directly by the household;
    - (ii) From one or more private, nonprofit, charitable organizations; and
    - (iii) Not exceeding three hundred dollars in any federal fiscal year quarter.
  - (w) Earned income credit.
- (2) When a child's earnings or amount of work performed cannot be differentiated from the earnings or work performed by other household members, the department shall:
  - (a) Prorate the earnings equally among the working members, and
  - (b) Exclude the child's pro rata share.

- (3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the excluded amount shall be:
  - (a) Any identifiable portion intended and used for the care and maintenance of the person out of the household, or
  - (b) If the portions are not readily identified as:
    - (i) An even pro rata share; or
    - (ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

**WSR 89-08-101**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed April 5, 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 Intentional program violations—Administrative disqualifications hearings, amending WAC 388-49-660;

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 74.04.510.

The specific statute these rules are intended to implement is chapter 74.04 RCW.

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: April 5, 1989  
 By: Leslie F. James, Director  
 Administrative Services

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.  
 Re: WAC 388-49-660.

Purpose of the Rule Change: To conform with federal regulation language and to clarify that the department shall make a final administrative disqualification hearing

(ADH) decision and notify the household member within ninety days of the date the household member receives the notice of hearing; and subsection (11) has been revised.

Statutory Authority: RCW 74.04.510.

Summary of Rule Change: This change clarifies that the department shall make a final administrative disqualification hearing (ADH) decision and notify the household member of the decision within ninety days of the date the person receives notice of the hearing.

Person Responsible for Rule Drafting and Implementation: Joan Wirth, Community Services Program Manager, Division of Income Assistance, 234-5401 scan, OB-31C.

This rule change is not necessary as a result of federal law.

**AMENDATORY SECTION** (Amending Order 2609, filed 4/1/88)

WAC 388-49-660 INTENTIONAL PROGRAM VIOLATIONS—ADMINISTRATIVE DISQUALIFICATION HEARINGS. Administrative disqualification hearings are governed by chapters 10-08 and 388-08 WAC and WAC 388-49-660.

(1) The department shall refer an individual who has no prior intentional program violation but who is suspected of committing an intentional program violation for an administrative disqualification hearing when:

(a) The overissuance caused by the suspected intentional program violation is two hundred and fifty dollars or more; or

(b) The sum of the overissuance caused by the suspected intentional program violation and all inadvertent household error overissuances that occurred in the two years immediately preceding the date of discovery of the suspected intentional program violation is two hundred and fifty dollars or more; and

(c) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) ~~((Resides))~~ Outside Washington but within one hour's reasonable drive to a community services office; and

(d) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(2) The department shall refer an individual who has committed one or more intentional program violations and who is suspected of committing another intentional program violation when:

(a) The act of suspected intentional program violation occurred:

(i) After the department mailed the administrative decision disqualifying the individual for the most recent intentional program violation; or

(ii) After entry of the order in criminal proceedings that caused the individual to be disqualified for the most recent intentional program violation; and

(b) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) ~~((Resides))~~ Outside Washington but within one hour's reasonable drive to a community services office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(3) The department shall:

(a) Give at least thirty days advance notice of the hearing date to the person or persons alleged to have committed an intentional program violation as defined in WAC 388-49-020, and

(b) Obtain proof of receipt of the notice.

(4) The notice of hearing shall comply with WAC 10-08-040 and contain the following information:

(a) The allegations;

(b) A summary of the department's evidence;

(c) A statement of how and where the evidence can be examined;

(d) A statement that if the person or a representative fails without good cause to appear at the hearing, a decision will be made based solely on the evidence and argument the department presents; and

(e) A statement that the person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) ~~((To file a request with the administrative law judge))~~ Showing good cause for failure to appear, and

(ii) Seeking a new hearing; and

(f) A statement that if a telephone hearing is scheduled, the person may request an in-person hearing by filing a request with the administrative law judge at least one week prior to the date of the hearing.

(5) The person or a representative shall have the right to one continuance of up to thirty days provided a request is filed at least ten days prior to the hearing date.

(6) The department shall conduct the hearing without the person or a representative if ~~((they))~~ either person fails to appear at the hearing without good cause.

(a) The decision shall be based solely on the evidence and argument the department presents.

(b) The person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear, and

(ii) Requesting the hearing be reinstated.

(7) The administrative law judge shall grant a request to change a scheduled telephone hearing to an in-person hearing if the person or representative:

(a) Files the request at least one week before the date the hearing is scheduled, or

(b) Files the request one week or less before the date the hearing is scheduled if the person shows good cause for having the hearing conducted in person.

(8) The administrative law judge shall advise the person or representative they may refuse to answer questions during the hearing.

(9) The department shall bear the burden of proof for demonstrating intentional program violation with clear and convincing evidence.

(10) The department shall follow the decision-rendering in WAC 388-08-406.

(11) The department shall make a final decision and notify the household member of the decision within ninety days of the date the individual receives the notice of hearing.

(12) The department may combine an overissuance fair hearing and an administrative disqualification hearing into a single hearing when the facts alleged for each arise out of the same or related circumstances. When combined:

(a) The hearing procedures and time frames shall be those applicable to an administrative disqualification hearing,

(b) The household loses its right to a subsequent fair hearing on the overissuance, and

(c) The department shall give prior notice to:

(i) The person or persons alleged to have committed the intentional program violation, and

(ii) The person or persons alleged to be liable for the overissuance.

**WSR 89-08-102**

**PROPOSED RULES**

**DEPARTMENT OF WILDLIFE**

**(Wildlife Commission)**

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning wildlife classified as protected wildlife, amending WAC 232-12-011;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.12.020.

The specific statute these rules are intended to implement is RCW 77.12.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989  
By: Lee S. Smith  
Administrative Regulations Officer

## STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-011  
Wildlife classified as protected wildlife.

Statutory Authority: RCW 77.12.020.

Specific Statute that the Rule is Intended to Implement: RCW 77.12.020.

Summary of the Rule: This action would remove the eastern gray squirrel, *Sciurus carolinensis*, and the fox squirrel, *Sciurus niger*, from protected classification.

Reason Supporting the Proposed Rule: These species are introduced, nonnative, urban wildlife and do not need to be protected. In some areas they are considered pests because they cause damage, nest in attics, chew on eaves, and are the cause of power outages. In Pierce County alone last year, they shorted out 59 transformers.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

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

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Impact Statement: Not required.

AMENDATORY SECTION (Amending Order 192, filed 9/9/82)

WAC 232-12-011 WILDLIFE CLASSIFIED AS PROTECTED WILDLIFE. Protected wildlife includes all birds not classified as game birds, predatory birds, or endangered species; and ((:)) fur seal, *Callorhinus ursinus*; fisher, *Martes pennanti*; wolverine, *Gulo luscus*; western gray squirrel, *Sciurus griseus* ((~~and carolinensis~~)); Douglas squirrel, *Tamiasciurus douglasii*; red squirrel, *Tamiasciurus hudsonicus*; flying squirrel, *Glaucomys sabrinus*; golden-mantled ground squirrel, *Callospermophilus saturatus*; chipmunks, *Eutamias* ((~~all species found wild in Washington~~)); cony or pika, *Ochotona princeps*; hoary marmot, *Marmota caligata* and *olympus*; ((pigmy)) pygmy rabbit, ((*Sylvilagus*)) *Brachylagus idahoensis*; ((fox squirrel, *Sciurus niger*)); all wild turtles not otherwise classed as endangered species; mammals of the order Cetacea, including whales, porpoises, and mammals of the sub-order Pinnipedia not otherwise designated as endangered species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

WSR 89-08-103  
PROPOSED RULES  
DEPARTMENT OF WILDLIFE  
(Wildlife Commission)  
[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning muzzleloading firearms, amending WAC 232-12-051;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.04.055 and 77.12.040.

The specific statute these rules are intended to implement is RCW 77.04.055 and 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989  
By: Lee S. Smith  
Administrative Regulations Officer

## STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-051  
Muzzleloading firearms.

Statutory Authority: RCW 77.04.055 and 77.12.040.

Specific Statute that the Rule is Intended to Implement: RCW 77.04.055 and 77.12.040.

Summary of the Rule: This amendment will require a heavier bullet weight for hunting elk with a muzzleloader. This change should result in more efficient killing of elk.

Reason Supporting the Proposed Rule: Firearm regulations for hunting are designed to preclude weapons that do not kill effectively. A minimum of a 170 grain bullet is needed to effectively kill an elk with a muzzleloader. This major change will eliminate the use of .40 caliber round balls for hunting elk. A round ball can be used for .50 caliber or larger but an elongated bullet would be required for smaller bores. The other changes are as follow: The one piece lead projectile requirement will preclude the use of a plastic sabot which allows the use of a bullet considerably smaller than rifle bore; the term "special primitive" muzzleloading season is no longer appropriate and "special primitive" has been deleted; the amendment in subsection (2) precludes the use of cartridge handguns which were made prior to 1895 and designed to use black powder; and the amendments in subsection (4) are to clarify the intent of having only one barrel loaded in usual situations and of allowing both barrels of a muzzleloading shotgun to be loaded in certain firearm restriction areas.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, 600 Capitol Way North,

Olympia, WA 98501-1091, (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

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

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Impact Statement: Not required.

**AMENDATORY SECTION** (Amending Order 234, filed 8/28/84)

WAC 232-12-051 (~~((MUZZLE-LOADING FIREARMS)) MUZZLELOADING FIREARMS.~~) (1) It is unlawful to carry or possess any firearm during (~~special primitive muzzle-loading~~) muzzleloading seasons which does not meet the following definition of (~~muzzle-loader~~) muzzleloader. (~~Muzzle-loader~~) Muzzleloader means a single or double barrel wheel lock, matchlock, flintlock, or percussion rifle or musket with exposed ignition in which the black powder and ball or bullet must be loaded from the muzzle. If the rifle has a removable breech plug, such removal must require the use of tools. Minimum barrel length is 20 inches and minimum caliber is .40. Projectile means a one-piece lead ball or bullet except buckshot size #1 or larger may be used in a smooth bore of .60 caliber or larger for deer. Minimum projectile weight for elk is 170 grains. Ignition is to be (~~wheellock~~) wheel lock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the elements. Sights must be metal. Telescopic sights or sights containing glass are prohibited.

(2) This section shall not apply to the carrying of a handgun designed (~~for~~) to be charged with black powder (~~use~~) only.

(3) This section shall not apply to persons lawfully hunting game birds with a shotgun.

(4) Only one barrel of a double barrel (~~muzzle-loader~~) muzzleloader may be (~~loaded~~) charged with a load at any one time while hunting in a (~~special primitive muzzle-loading~~) muzzleloading season except in specified firearm restricted areas.

(5) It is unlawful to use a black powder substitute in a (~~muzzle-loading~~) muzzleloading firearm during any (~~special primitive muzzle-loading~~) muzzleloading season.

**WSR 89-08-104**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
 [Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning conditions for issuance of permits for aquatic plants or releasing of wildlife, amending WAC 232-12-271;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.12.020, 77.02.040 [77.12.040] and 77.16.150.

The specific statute these rules are intended to implement is RCW 77.12.020, 77.12.040 and 77.16.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989

By: Lee S. Smith  
 Administrative Regulations Officer

**STATEMENT OF PURPOSE**

Title and Number of Rule Section: WAC 232-12-271  
 Conditions for issuance of permits for aquatic plants or releasing of wildlife.

Statutory Authority: RCW 77.12.020, 77.12.040 and 77.16.150.

Specific Statute that the Rule is Intended to Implement: RCW 77.12.020, 77.12.040 and 77.16.150.

Summary of the Rule: The amendment to this rule establishes the criteria for the release of animals to the wild. Persons, other than the director of the Department of Wildlife, may not release animals which do not already exist in the wild in Washington. Persons wishing to release wildlife which already exist in the wild in Washington must obtain a permit from the director, and prove that such animals do not pose a disease threat. The director must report to the Wildlife Commission before releasing any animal to the wild which does not already exist in the wild in Washington. The director shall evaluate such a release based on the criteria contained in this rule.

Reason Supporting the Proposed Rule: The intent is to clarify the responsibility and relationship between the director and the Wildlife Commission and to clarify and expand criteria for the release of animals to the wild to help prevent introduction of disease or damage to habitat and existing wildlife populations.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

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

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Impact Statement: Not required.

**AMENDATORY SECTION** (Amending Order 177, filed 1/28/82)

WAC 232-12-271 (~~CONDITIONS~~) CRITERIA FOR (~~ISSUANCE OF PERMITS FOR~~) PLANTING AQUATIC PLANTS (~~OR~~) AND RELEASING (~~OF~~) WILDLIFE. (1) Release by persons other than the director. It is unlawful for persons other than the

director to plant ((or release wildlife or)) aquatic plants ((in the state without a permit from the director.)) or release any species, subspecies, or hybrids of animals which do not already exist in the wild in Washington. If such species, subspecies, or hybrid does already exist in the wild in Washington, it may be released within its established range by persons other than the director, but only after obtaining a permit from the director.

((1)) (a) Application for a permit must be made on a form provided by the department. It must be submitted at least thirty days prior to acquisition of the wildlife or aquatic plants intended for release or planting, and must provide all information indicated.

((2)) (b) Permits will only be issued if the ((department)) director determines there will be no adverse impact on the wildlife or wildlife habitat of the state.

((3)) (c) Each permit shall require that at least thirty days prior to planting or release of wildlife or aquatic plants they must be made available for ((department)) inspection by the director. It shall be the responsibility of the applicant to show that the wildlife will not pose a disease threat. If the ((department)) director is not satisfied(;) that the wildlife or aquatic plants do not pose a ((are)) disease threat ((free)), they shall not be released or planted in the state. Director approval for release or planting may be withdrawn for cause.

((4)) (d) ((A person)) Each permit shall require that an applicant intending to release wildlife in the state shall report immediately to the ((department)) director the outbreak of any disease among the wildlife intended to be released. If the director determines that such outbreak presents a threat to the wildlife of the state, the director may immediately order such action as necessary including quarantine or destruction of stock, sterilization of enclosures and facilities, cessation of activities, and disposal of wildlife in a manner satisfactory to the ((department)) director.

((5)) (e) ((Wildlife covered by a permit issued under this regulation)) Each permit shall require that wildlife to be released shall not be branded, tattooed, tagged, fin clipped or otherwise marked for identification without approval of the director.

(2) Release by the director. The director may plant aquatic plants or release animal species, subspecies, or hybrids which have been planted or released previously in Washington if they do not pose a disease threat and if planting or release will not cause adverse impact on the wildlife or wildlife habitat of the state. Before releasing any species, subspecies, or hybrid of animal not already existing in the wild in Washington, the director shall report to the commission on the planned release, stating the basis for determining that the planned release fulfills the criteria set forth herein. The director may release nonnative species, subspecies, or hybrids not previously released in Washington only if the director in his or her sole discretion has determined that:

(a) There is no reasonable expectation of adverse impact on the wildlife or wildlife habitat of the state and there is an adequate plan for evaluating such impact following the release;

(b) The commission has classified the species, subspecies, or hybrids to be released pursuant to RCW 77.12.020;

(c) Suitable habitat is available;

(d) The nonnative species, subspecies, or hybrids to be released are free of exotic pathogens;

(e) The release serves the public interest.

**WSR 89-08-105**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning Hunting—Clothing requirements, adopting WAC 232-12-285;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.12.010 and 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.010 and 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989

By: Lee S. Smith

Administrative Regulations Officer

**STATEMENT OF PURPOSE**

Title and Number of Rule Section: WAC 232-12-285  
 Hunting—Clothing requirements.

Statutory Authority: RCW 77.12.010 and 77.12.040.

Specific Statute that Rule is Intended to Implement:  
 RCW 77.12.010 and 77.12.040.

Summary of the Rule: It is unlawful to hunt, or to accompany in the field one who hunts, upland birds unless the individual is wearing fluorescent hunter orange clothing; it is unlawful to hunt, or to accompany in the field one who hunts, deer or elk during the modern firearm seasons unless the individual is wearing fluorescent hunter orange clothing; a minimum of 400 square inches of fluorescent hunter orange exterior clothing, worn above the waist and visible from all sides, is required; and this regulation will take effect with the 1990 fall hunting seasons.

Reason Supporting the Proposed Rule: Firearm related hunting accident statistics for Washington indicate that misidentification and other vision related causes (victim mistaken for game, victim covered by shooter swinging on game, etc.) are the major contributing causes of accidents. Accidents involving big game and upland bird hunting together comprise the majority of firearm related hunting accidents. There is no upper limit or other controlling mechanism regulating the number of hunters in the field during general hunting seasons. Although the use of fluorescent hunter orange does not limit hunter numbers, it does serve as a valuable aid in increasing hunter visibility while in the field. The use of hunter orange will help reduce certain categories of firearm related hunting accidents. The experience of other states which require hunter orange clothing for hunters has been a significant reduction in firearm related hunting accidents.

Agency Personnel Responsible for Drafting and Implementation: Sara LaBorde, Chief, Office of Information and Education, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5707; Enforcement: Daniel Wyckoff, Assistant Director, Wildlife Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule:

Implementation of the regulation is delayed until September 1990 in order to allow sufficient time for manufacturers, retailers and the public to produce, stock and purchase clothing items which satisfy the regulation. Adequate lead time is necessary to insure both product availability and public education.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

#### NEW SECTION

WAC 232-12-285 HUNTING—CLOTHING REQUIREMENTS. (1) After September 1, 1990, it is unlawful to hunt, or to accompany in the field one who hunts, upland birds unless the individual is wearing fluorescent hunter orange clothing.

(2) After September 1, 1990, it is unlawful to hunt, or to accompany in the field one who hunts, deer or elk during the modern firearm seasons unless the individual is wearing fluorescent hunter orange clothing.

(3) Wearing fluorescent hunter orange means: a minimum of 400 square inches of fluorescent hunter orange exterior clothing, worn above the waist and visible from all sides.

**WSR 89-08-106**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
 [Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning Amendment to 1988-90 game fish regulations—Clay Pit Pond (Whatcom County), repealing WAC 232-28-61703;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989

By: Lee S. Smith  
 Administrative Regulations Officer

#### STATEMENT OF PURPOSE

Title and Number of Rule Section: Repealing WAC 232-28-61703 Amendment to 1988-90 game fish regulations—Clay Pit Pond (Whatcom County).

Statutory Authority: RCW 77.12.040.

Specific Statute that the Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Repeals WAC 232-28-61703 adopted August 10, 1988, under Administrative Order 315 which closed Clay Pit Pond in Whatcom County to game fishing. The repeal of this WAC will revert the Clay Pit Pond regulation to its former state as listed in the 1988-90 Game fish regulations (WAC 232-28-617), Clay Pit Pond: Year around season.

Reasons Supporting the Proposed Rule: Clay Pit Pond was closed in August 1988 due to a concern over possible contamination of fish stocks by heavy metals. The closure contained the stipulation that it would be reevaluated after fish tissue samples were examined by DOE personnel. That DOE evaluation has been accomplished and the results are contained in a report issued in October 1988. That report states that "if the United States, Canadian and state limits for metals are used as a guide in determining health risks associated with eating fish, then the fish from Clay Pond apparently pose no significant risk."

Agency Personnel Responsible for Drafting: Paul Mongillo, Resident Fish Program Manager, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5713; Implementation: Patricia Doyle, Assistant Director, Fisheries Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5713; and Enforcement: Daniel Wyckoff, Assistant Director, Wildlife Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5710.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

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

Any other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

#### REPEALER

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

WAC 232-28-61703 AMENDMENT TO 1988-90 GAME FISH REGULATIONS CLAY PIT POND (WHATCOM COUNTY)

**WSR 89-08-107**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
 [Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning hunting of game animals by persons of disability, adopting WAC 232-12-829;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.12.010.

The specific statute these rules are intended to implement is RCW 77.12.010 and 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989

By: Lee S. Smith

Administrative Regulations Officer

**STATEMENT OF PURPOSE**

Title and Number of Rule Section: Adopting WAC 232-12-829 Hunting of game animals by persons of disability.

Statutory Authority: RCW 77.12.010.

Specific Statute that Rule is Intended to Implement: RCW 77.12.010 and 77.12.040.

Summary of the Rule: These regulations are intended to carry out the legislative policy of enhancing handicapped persons' access to recreational opportunity as codified in RCW 77.12.010. These regulations are intended to enhance the health, safety, and welfare of the general public and not that of any particular person or group of persons.

Reason Supporting the Proposed Rule: This rule will enhance the opportunity of persons of disability to participate in the hunting of game animals and game birds. Persons of disability are defined and assistance by non-disabled companions for holders of disabled hunter permit is provided.

Agency Personnel Responsible for Drafting: Rich Poelker, Governmental and External Affairs Administrator, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-2921; Implementation: Chris Drivdahl, Assistant Director, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5728; and Enforcement: Curt Smith, Director, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5710.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

NEW SECTION

WAC 232-12-829 HUNTING OF GAME ANIMALS BY PERSONS OF DISABILITY. (1) Preamble. This regulation is intended to carry out the legislative policy of maximizing handicapped persons' access to recreational opportunity as codified in RCW 77.12-010. This regulation is intended to enhance the health, safety, and welfare of the general public and not that of any particular person or group of persons.

(2) Definitions. Terms used in this regulation are defined as follows:

(a) A "person of disability" is a permanently disabled person who is unable to be mobile without the assistance of a wheelchair or crutches. This definition is intended to include but not be limited to those disabled persons with lower extremity impairment such as paraplegics and amputees.

(b) A "disabled hunter" is a person who possesses a Disabled Hunter Permit issued by the director as well as all other required licenses, tags, and permits.

(c) A "non-disabled hunter" is a licensed hunter accompanying a disabled hunter for the purpose of assisting in retrieval, killing of game wounded by a disabled hunter, and tagging of game killed by a disabled hunter.

(3) Disabled Hunter Permit. The director may issue a Disabled Hunter Permit to any person of disability who applies to the department and presents such evidence as the director may accept showing that the applicant is a person of disability.

(4) Permitted and Prohibited Activities.

(a) Shooting from an off-road vehicle. A disabled hunter may not possess a loaded firearm or discharge a firearm from within or upon a motor vehicle. A disabled hunter may not discharge a firearm upon, across, or along a public highway.

(b) Killing of game wounded by persons of disability. A non-disabled companion may accompany a disabled hunter and kill any game animal wounded by the disabled hunter. The companion must immediately notch and attach the disabled hunter's tag to the carcass of the animal. A non-disabled companion shall not possess a loaded gun in, or shoot from, a motor vehicle or off-road vehicle.

(c) Tagging game killed by a disabled hunter. A non-disabled companion may cut, notch, and affix tags to game animals killed by a disabled hunter.

(d) Retrieving game. A non-disabled companion may retrieve or assist in retrieving a game animal which has been either killed by a disabled hunter or wounded by a disabled hunter and killed by a non-disabled hunter.

(e) Game killed, tagged, or retrieved by a non-disabled companion who is accompanying a disabled hunter shall count against the disabled hunter's bag limit and shall not count against the non-disabled companion's bag limit.

**WSR 89-08-108**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
 [Filed April 5, 1989]

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



New WAC 232-28-218 1989 General hunting seasons and rules.  
 Rep WAC 232-28-217 1988 Hunting seasons and game bag limits and 1988 Game management units and area legal descriptions.  
 Rep WAC 232-28-110 1987 Upland migratory game bird seasons and rules;

that the agency will at 9:00 a.m., Friday-Saturday, May 12-13, 1989, in the West Coast Ridpath Hotel, West 515 Sprague, Spokane, WA 99204-0367, 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 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1989.

Dated: April 5, 1989

By: Lee S. Smith

Administrative Regulations Officer

**STATEMENT OF PURPOSE**

Title and Number of Rule Section: WAC 232-28-218 1989-90 General hunting seasons and rules.

Statutory Authority: RCW 77.12.040.

Specific Statute that the Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Establishes the 1989-90 hunting seasons and rules in the manner outlined in the 1988 pamphlet.

Reason Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement Division, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

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

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Impact Statement: Not required.

NEW SECTION

WAC 232-28-218 1989 GENERAL HUNTING SEASONS AND RULES.

**Reviser's note:** The text and accompanying pamphlet comprising the 1989 General hunting seasons and rules proposed by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from

the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 232-28-217 1988 Hunting Seasons and Game Bag Limits and 1988 Game Management Units and Area Legal Descriptions  
 WAC 232-28-110 1987 Upland Migratory Game Bird Seasons and Rules

**WSR 89-08-109**

**PROPOSED RULES**

**UTILITIES AND TRANSPORTATION**

**COMMISSION**

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to methods for obtaining data in contested cases, WAC 480-08-208. The proposed new section is shown below as Appendix A, Docket No. U-89-2748-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new section on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17).

This is notice of intention to adopt on a permanent basis rules adopted on an emergency basis on March 29, 1989, General Order No. R-290, and filed with the code reviser's office, under WSR 89-08-004;

that the agency will at 9:00 a.m., Wednesday, May 17, 1989, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 24, 1989.

The authority under which these rules are proposed is RCW 80.01.040, 80.04.020, 80.04.070, 80.04.090, 80.04.100, corresponding sections of chapter 81.04 RCW, RCW 34.04.020 and 34.04.105.

The specific statute these rules are intended to implement is Titles 80 and 81 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 11, 1989.

Dated: April 5, 1989

By: Paul Curl

Acting Secretary

**STATEMENT OF PURPOSE**

In the matter of adopting WAC 480-08-208 relating to methods for obtaining data in contested cases.

The rule proposed by the Washington Utilities and Transportation Commission is to be promulgated pursuant to RCW 80.01.040, 80.04.020, 80.04.070, 80.04.090, 80.04.100, the corresponding sections of chapter 81.04 RCW, RCW 34.04.020 and 34.04.105 which direct that the commission has authority to implement the provisions of Titles 80 and 81 RCW.

The rule proposed by the Washington Utilities and Transportation Commission is designed to provide a mechanism for the production and dissemination of information in contested cases pending before the commission. The rule formalizes procedures that have been in place on a case by case basis for many years.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rule and will be responsible for implementation and enforcement of the proposed rule.

The proponent of the rule is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and the statutes cited above.

The rule changes is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

#### APPENDIX "A"

##### NEW SECTION

WAC 480-08-208 METHODS FOR OBTAINING DATA IN CONTESTED CASES. (1) General. This section identifies certain formal procedures for obtaining data in contested cases. Nothing in this section shall be construed as imposing any limitation whatsoever on the commission's ability to audit and/or obtain the books and records of public service companies, and the public service companies' obligation to provide information to the commission, whether or not in the context of a contested case. Nothing in this section shall be construed as prohibiting any informal data production procedures to which any parties in a contested case may agree.

(2) Definitions and description of methods.

(a) Company. Any public service company subject to regulation by the commission, which is not an intervenor in the contested case.

(b) Intervenor. A person allowed to intervene in a contested case.

(c) Data request. A written request for data issued by authority of the commission in a contested case. When issued over signature of the secretary of the commission on behalf of the commission staff the data request is typically termed a "staff request". When issued by the assistant attorney(s) general representing the commission in the contested case, the data request is typically termed a "counsel request".

(d) Intervenor request. A written request for data submitted by an intervenor in a contested case.

(e) Company request. A written request for data submitted by a company.

(f) Public counsel request. A written request for data submitted by public counsel.

(g) Record requisition. An oral request for data, by a party, made on the record at a hearing in a contested case.

(h) Requests for data. Unless used in a different context, "requests for data" means data requests, intervenor requests, company requests, public counsel requests, and record requisitions.

(i) Clarification proceeding. A proceeding, instituted by notice at the discretion of the commission in which the evidence of a party, usually the company, is subject to such oral examination as falls within the category of clarifying cross-examination. Such cross-examination is intended to detail the position of the witness(es) and the support for the position of the witness(es). The clarification proceeding is heard before an administrative law judge, and is transcribed. Any evidence

produced during such a proceeding is not evidence in the contested case until such time as it is entered into the record.

(j) Data. As used in this section, data means information of any type in any form.

(k) Prefiled evidence. Prefiled evidence is evidence of a party filed with the secretary of the commission prior to presentation of the evidence on the record. This procedure is also called predistribution.

(3) When available. The requests for data and the clarification procedure described in this section shall be available in the context of a contested case when the commission, in its discretion, declares by order or by notice of hearing in the proceeding that such methods shall be available. The commission may make a separate declaration that the clarification procedure or the record requisition procedure will be utilized. The commission may, in its discretion, revoke its declaration during the course of the contested case.

(4) Procedure. When the commission has indicated that requests for data are available, the procedures for using these methods are as follows:

(a) To whom sent. Data requests, intervenor requests, company requests and public counsel requests shall be in writing, sent to the party of whom the request is made, with copies to all other parties. Neither the commissioners nor the secretary of the commission need receive copies of such requests. The administrative law judge may receive copies if he or she so requests. Record requisitions are made on the record, at hearing.

(b) Receipt of responses. Responses to requests for data shall be sent to the requesting party and to any other party who shall have requested a copy, so long as such responses are consistent with the terms of any protective order which may be entered in the proceeding. Responses are not filed with the secretary of the commission.

The party responding to the request for data shall provide the data requested to the requesting party within ten days of receipt of the request. In the event the data cannot be supplied within ten days, the responding party shall notify the requesting party, in writing and within five days of the request, of the reasons why the ten-day limit cannot be met. In this event, the responding party shall also provide a schedule for producing the requested data.

No response to a request for data shall be considered or treated as evidence until it is entered into the record.

(c) Scope of request. The scope of any request for data to a company shall be for data relevant to the evidence prefiled or presented by the company, or relevant to the issues identified in the notices of hearing or orders in the contested case.

The scope of any request for data to a party other than a company shall be for data relevant to the evidence prefiled or presented by such party.

For good cause shown, the commission may adopt a different standard for the scope of specific requests for data.

(d) Procedure for resolving disputes. If a responding party refuses to produce the data requested, and the requesting party has failed in good faith efforts to resolve the dispute with the responding party, the matter may be brought upon motion filed with the secretary of the commission and presented to an administrative law judge for resolution. If such resolution is unsatisfactory to a party, a motion may be filed with the commission for resolution of the issue.

In determining whether the data should be produced, the relevance of the request for data, the burden on the producing party, and any other pertinent factors will be considered.

**WSR 89-08-110**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to telecommunications contracts and price lists, WAC 480-80-330 and 480-120-027. The proposed amendatory sections are shown

below as Appendix A, Cause No. U-88-1704-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00, Wednesday, May 17, 1989, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., Olympia, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.01.040.

The specific statute these rules are intended to implement is RCW 80.36.130 and 80.36.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 12, 1989.

Dated: April 5, 1989

By: Paul Curl  
Acting Secretary

### STATEMENT OF PURPOSE

In the matter of amending WAC 480-80-330 and 480-120-027 relating to telecommunications contracts and price lists.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, 80.36.130 and 80.36.150 which direct that the commission has authority to implement the provisions of chapter 80.36 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to prescribe, in part, the content, and to implement procedures applicable to contracts for telecommunications service offered ultimate consumers under tariff or price list.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, 80.36.130 and 80.36.150.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule changes proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

### APPENDIX "A"

AMENDATORY SECTION (Amending Order 291, Docket No. U-88-2337-R, filed 10/28/88)

WAC 480-80-330 ((SPECIAL CONTRACTS)) TELECOMMUNICATIONS CONTRACTS. ((Every utility shall submit to the commission a true copy of any special contract entered into governing the sale or purchase by it of telephone service[,] or other public utility service or commodity when the rate for such service is not specifically covered in the regular tariff and referred to in the contract as controlling and the commission shall be kept current in that regard: PROVIDED, That this section shall not apply to contracts entered into by electric, gas, and water utilities, which utilities shall be subject to WAC 480-80-335.)) (1) Contracts to be filed. All contracts with end use customers for the retail sale of regulated intrastate telecommunications services which contain or state rates or conditions not in conformance with any applicable tariff or which provide for telecommunications services which are not specifically addressed in the telecommunications company's published tariffs shall be filed with the commission in accordance with this section. For purposes of this section the modification of a previously executed contract will be treated as a new contract. This rule shall not apply to contracts which offer services subject to a price list filed pursuant to WAC 480-120-027.

(2) Application. This section shall apply prospectively to all contracts as defined in subsection (1) of this section executed after the effective date of this section.

(3) Legal effect. All contracts filed pursuant to this section shall be in legal effect filed tariffs and subject to enforcement, supervision, regulation, and control as such. The provisions of chapter 480-80 WAC shall apply except for those provisions governing the filing, notice, and form or tariffs.

(4) Time for filing and effectiveness. With the exception of firm bid contracts allowed under subsection (5) of this section, each such contract shall be filed with the commission in accordance with this subsection. A contract which does not qualify for treatment under subsection (5) of this section shall be filed with the commission not less than thirty days prior to the proposed effective date of the contract, and shall become effective according to its terms unless earlier approved, suspended, or rejected by the commission: PROVIDED, That upon application and for good cause shown, the commission may approve the contract as of an effective date prior to the date that the contract would have become effective in accordance with this section and upon waiver of statutory notice.

(5) Federal contracts. Where a federal agency asserts its authority to solicit a firm offer of services and a contract subject to this section is submitted in response to that solicitation, the provisions of subsection (4) of this section will not apply. Upon the acceptance of such a contract offer by the federal agency, the telecommunications company shall immediately file the contract with the commission and must include the same documentation required for approval by subsection (6) of this section.

(6) Documentation. Each contract and substantial contract modification filed pursuant to this section shall be accompanied by documentation to show that the contract does not result in undue or unreasonable discrimination between customers receiving like and contemporaneous service under substantially similar circumstances; and provides for the recovery of all costs associated with the provision of the services. In addition, the telecommunications company shall file the following information in conjunction with each contract submitted:

(a) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge;

(b) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract; and

(c) A statement indicating the basis for the use of a contract rather than a filed tariff for the specific service involved.

(7) Duration of contract. All contracts shall be for a stated time period. The filing or approval of a contract shall not be determinative with respect to the expenses and revenues of the telecommunications company for subsequent ratemaking considerations.

(8) Confidentiality. Filings under this section may be submitted with portions designated "confidential" pursuant to WAC 480-08-015. However, any filing which designates as "confidential" either the rate or description of the service offered will be rejected by the secretary.

## ALTERNATIVE 1

AMENDATORY SECTION (Amending Order R-282, Cause No. U-86-125, filed 11/30/87)

WAC 480-120-027 PRICE LISTS. (1) Pursuant to RCW 80.36-.310 telecommunications services classified by the commission as competitive will be offered under price lists. All services of competitive telecommunications companies as classified by the commission under RCW 80.36.310 will be offered under price lists.

(2) All price lists filed with the commission must describe the service being offered and all prices, charges, terms, and conditions pertaining thereto. Each page of every price list shall contain, in general, the company name, the page number, and the effective date. All subsequent revisions of a price list shall bear consecutive revision numbers. Price lists must provide sufficient detail for customers and potential customers reasonably to determine what is being offered and what charges the customer incurs in obtaining the service.

(3) Contracts (including modifications to previously executed contracts) for services which are governed by this price list rule may be offered under rates or conditions which do not conform to any applicable filed price list, subject to the requirements of this subsection.

(a) Contracts of companies classified "competitive" under RCW 80.36.310 shall be filed with the commission only upon the request of the secretary. A contract filed pursuant to this subdivision will not be rejected by the commission in the absence of competent evidence that the contract is unlawful.

(b) Contracts which offer services classified as "competitive" under RCW 80.36.330 shall be filed with the commission at least ten days prior to the effective date. Such contracts may not include both "price listed" and "tariffed" services unless the tariffed services are set forth separately and offered under an approved tariff or contract (see WAC 480-80-330). A contract filed pursuant to this subdivision may be rejected if the telecommunications company is unable to document that the price charged covered its relevant costs under either a long run incremental cost analysis or a fully distributed cost analysis whichever is lower, or any other commission-approved cost method. A contract filed pursuant to this subdivision may also be rejected upon a showing that it is otherwise unlawful. To meet its burden of proving that the contract is cost-based, the company shall, at a minimum, provide the following information at the time of filing:

(i) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge; and

(ii) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract.

(c) All contracts filed pursuant to this subsection shall be for a stated time period. The filing of a contract shall not be determinative with respect to the expenses and revenues of the telecommunications company for subsequent ratemaking considerations.

(d) Filings under this subsection may be submitted with portions designated "confidential" pursuant to WAC 480-08-015. However, any filing which designates as "confidential" either the price or description of the service offered will be rejected by the secretary.

(4) Federal contracts. Where a federal agency asserts its authority to solicit a firm offer of services and a contract subject to this section is submitted in response to that solicitation, the provisions of subsection (3) of this section will not apply. Upon the acceptance of such a contract offer by the federal agency, the telecommunications company shall immediately file the contract with the commission and must include the same documentation otherwise required by this section.

## ALTERNATIVE 2

AMENDATORY SECTION (Amending Order R-282, Cause No. U-86-125, filed 11/30/87)

WAC 480-120-027 PRICE LISTS. (1) Pursuant to RCW 80.36-.310 telecommunications services classified by the commission as competitive will be offered under price lists. All services of competitive telecommunications companies as classified by the commission under RCW 80.36.310 will be offered under price lists.

(2) All price lists filed with the commission must describe the service being offered and all prices, charges, terms, and conditions pertaining thereto. Each page of every price list shall contain, in general, the company name, the page number, and the effective date. All subsequent revisions of a price list shall bear consecutive revision numbers. Price lists must provide sufficient detail for customers and potential

customers reasonably to determine what is being offered and what charges the customer incurs in obtaining the service.

(3) Contracts (including modifications to previously executed contracts) for services which are governed by this price list rule may be offered under rates or conditions which do not conform to any applicable filed price list, subject to the requirements of this subsection.

(a) Contracts of companies classified "competitive" under RCW 80.36.310 shall be filed with the commission not later than five business days after execution. A contract filed pursuant to this subdivision will not be rejected by the commission in the absence of competent evidence that the contract is unlawful.

(b) Contracts which offer services classified as "competitive" under RCW 80.36.330 shall be filed with the commission at least ten days prior to the effective date. Such contracts may not include both "price listed" and "tariffed" services unless the tariffed services are set forth separately and offered under an approved tariff or contract (see WAC 480-80-330). A contract filed pursuant to this subdivision may be rejected if the telecommunications company is unable to document that the price charged covered its relevant costs under either a long run incremental cost analysis or a fully distributed cost analysis whichever is lower, or any other commission-approved cost method. A contract filed pursuant to this subdivision may also be rejected upon a showing that it is otherwise unlawful. To meet its burden of proving that the contract is cost-based, the company shall, at a minimum, provide the following information at the time of filing:

(i) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge; and

(ii) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract.

(c) All contracts filed pursuant to this subsection shall be for a stated time period. The filing of a contract shall not be determinative with respect to the expenses and revenues of the telecommunications company for subsequent ratemaking considerations.

(d) Filings under this subsection may be submitted with portions designated "confidential" pursuant to WAC 480-08-015. However, any filing which designates as "confidential" either the price or description of the service offered will be rejected by the secretary.

(4) Federal contracts. Where a federal agency asserts its authority to solicit a firm offer of services and a contract subject to this section is submitted in response to that solicitation, the provisions of subsection (3) of this section will not apply. Upon the acceptance of such a contract offer by the federal agency, the telecommunications company shall immediately file the contract with the commission and must include the same documentation otherwise required by this section.

## WSR 89-08-111

## PROPOSED RULES

UTILITIES AND TRANSPORTATION  
COMMISSION

[Filed April 5, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to Electric companies—Purchase of electricity from qualifying facilities and independent power producers and purchases of electric savings from conservation suppliers, chapter 480-107 WAC; and repealing WAC 480-105-001, 480-105-005, 480-105-010, 480-105-020, 480-105-030, 480-105-040, 480-105-050, 480-105-060, 480-105-070 and 480-105-080. The proposed new chapter and repealer are shown below as Appendix A, Docket No. U-89-2814-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new chapter on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, May 10, 1989, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 17, 1989.

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.28.025.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 5, 1989.

Dated: April 5, 1989

By: Paul Curl  
Acting Secretary

### STATEMENT OF PURPOSE

In the matter of adopting chapter 480-107 WAC relating to Electric companies—Purchase of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers; and repealing WAC 480-105-001, 480-105-005, 480-105-010, 480-105-020, 480-105-030, 480-105-040, 480-105-050, 480-105-060, 480-105-070 and 480-105-080.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.04.160 which direct that the commission has authority to implement the provisions of chapter 80.28 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to establish procedures for determining rates, terms, and conditions governing the following purchases by electric utilities: Electricity from qualifying facilities; the electrical savings associated with eligible conservation measures; and, at the utility's election, electricity from independent power producers, utility subsidiaries, and other electric utilities.

The procedure to be established by the proposed rules will accommodate and further the commission's least cost planning goals for meeting current and future electricity needs at the lowest cost to electric utilities and their ratepayers as provided in WAC 480-100-251. In addition, the procedures implement regulations of the Federal Energy Regulatory Commission under the provisions of the Public Utilities Regulatory Policy Act of 1978, regarding the obligation of electric utilities to purchase power from qualifying facilities.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 80.28.025.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule changes proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

### APPENDIX "A"

#### Chapter 480-107 WAC ELECTRIC COMPANIES—PURCHASES OF ELECTRICITY FROM QUALIFYING FACILITIES AND INDEPENDENT POWER PRODUCERS AND PURCHASES OF ELECTRICAL SAVINGS FROM CONSERVATION SUPPLIERS

#### WAC

480-107-001	Purpose and scope.
480-107-005	Definitions.
480-107-010	Filing requirements for prototype contracts.
480-107-020	Eligibility for long-run generating facility purchase rates.
480-107-030	Eligibility for long-run conservation purchase rates.
480-107-040	Size of resource block.
480-107-050	Avoided cost schedules.
480-107-060	The solicitation process.
480-107-070	Project ranking procedure.
480-107-080	Pricing and contracting procedures.
480-107-090	Security considerations.
480-107-100	Contract finalization.
480-107-110	Obligations of generating facilities to electric utility.
480-107-120	Obligations of electric utility to generating facilities.
480-107-130	Rates for sales to generating facilities.
480-107-140	System emergencies.
480-107-150	Interconnection costs.
480-107-160	Special conditions for purchase of electrical power or savings from a utility subsidiary.
480-107-170	Filings—Investigations—Exceptions.

#### NEW SECTION

WAC 480-107-001 PURPOSE AND SCOPE. (1) The purpose of this chapter is to establish rules for determining rates, terms, and conditions governing the following purchases by electric utilities: Electricity from qualifying facilities; the electrical savings associated with eligible conservation measures; and, at the utility's election, electricity from independent power producers, utility subsidiaries, and other electric utilities.

These rules are consistent with the provisions of the Public Utilities Regulatory Policies Act of 1978 (PURPA), Title II, sections 201 and 210, and regulations promulgated by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292. Purchase of electric power under these rules shall satisfy an electric utility's obligation to purchase power from qualifying facilities under section 210 of PURPA.

These rules do not preclude electric utilities from constructing electric resources, operating conservation programs, purchasing power through negotiated purchase contracts, or otherwise taking action to satisfy their public service obligations. Information about the price and availability of electric power obtained through the bidding procedures described in these rules may be used, in conjunction with other evidence, in general rate cases and other cost recovery proceedings pertaining to resources not acquired through these bidding procedures.

(2) The provisions of this chapter shall apply to any electric utility which has submitted to the commission a least-cost plan as provided in WAC 480-100-251.

#### NEW SECTION

WAC 480-107-005 DEFINITIONS. (1) "Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a generating facility's own generation equipment during an unscheduled outage of the facility.

(2) "Commission" means the Washington utilities and transportation commission.

(3) "Conservation measures" means efficiency improvements to buildings or energy using equipment and processes in place at the time these rules become effective.

(4) "Economic dispatch" means, within contractually specified limits, modifying the timing of power purchases from a generating facility in a manner responsive to power purchase costs and conditions prevailing at the time.

(5) "Electric utility" means any public service company as defined by RCW 80.04.010 engaged in the generation, distribution, sale, or furnishing of electricity and which is subject to the jurisdiction of the commission.

(6) "Eligible conservation suppliers" means electric utility customers, or third party conservation contractors installing energy efficiency measures as described in these rules.

(7) "Eligible parties" means qualifying small power producers and cogenerators (qualifying facilities), conservation suppliers, independent power producers, utility subsidiaries, and other electric utilities.

(8) "Generating facilities" means plant and other equipment employed for the purposes of generating electricity.

(9) "Independent power producers" means generating facilities or parts thereof that are not recognized in the retail rates of any electric utility and that are not qualifying facilities as defined in subsection (17) of this section.

(10) "Interruptible power" means electric energy or capacity supplied by an electric utility to a generating facility subject to interruption by the electric utility under certain specified conditions.

(11) "Least cost plan" means the filing made every two years by an electric utility in accordance with WAC 480-100-251.

(12) "Long run purchase" means a contractually-specified purchase from an eligible party, where the obligation to deliver power or electrical savings is greater than one year.

(13) "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of a generating facility.

(14) "Project developer" means an individual, association, corporation, or other legal entity potentially entering into a power or conservation savings contract with the utility.

(15) "Project proposal" means a project developer's document containing a description of the project and other information responsive to the requirements set forth in the RFP.

(16) "Prototype contract" means standardized terms and conditions that govern specific electric power or electrical savings purchases by electric utilities. Prototype contracts may be structured to accommodate terms and conditions specific to individual projects, subject to the conditions set forth in these rules.

(17) "Qualifying facilities" are generating facilities that meet the criteria specified by the FEREC in 18 C.F.R. Part 292 Subpart B.

(18) "Request for proposal" (RFP) means the document describing an electric utility's solicitation of bids for the delivery of power or electrical savings.

(19) "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a generating facility in addition to that which the facility generates itself.

(20) "Utility subsidiary" means a legal entity, other than a qualifying facility, which is owned, in whole or in part, by an electric utility, and which may enter a power or conservation savings contract with that electric utility.

#### NEW SECTION

WAC 480-107-010 FILING REQUIREMENTS FOR PROTOTYPE CONTRACTS. (1) The electric utility shall file its initial prototype contracts with the commission. These contracts shall be attached to the utility's request for proposals (RFP). Prototype contracts may be structured to allow for project-specific contract language where appropriate. The following prototype contracts shall establish terms, conditions, and rules for such transactions, and must be consistent with these rules.

(2) Short-run prototype contract. The electric utility shall file with the commission a contract which offers to qualifying facilities a short-run price equivalent to one hundred percent of the avoided energy-only production costs calculated pursuant to WAC 480-107-050. Such contract shall be called the qualifying facility short-run prototype contract.

(3) Long-run prototype contracts. The electric utility shall file with the commission three contracts which will be used pursuant to the requirements set forth in this chapter.

(a) The first contract shall be used in contracting with qualifying facilities, or other generating facilities if applicable, from winning bidders as determined through the solicitation and bidding process described in this chapter. Such contract shall be called the long-run prototype contract A.

(b) The second contract shall be used in contracting with qualifying facilities of design capacity of one megawatt or less. Such contract shall be called the long-run prototype contract B.

(c) The third contract shall be used in contracting with conservation suppliers as determined through the solicitation and bidding process. Such contract shall be called the long-run prototype contract C.

(4) The commission shall review all short-run and long-run prototype contracts filed by electric utilities pursuant to this section. Any modification to such prototype contracts proposed by the electric utility in between RFP submittals shall be filed with the commission.

#### NEW SECTION

WAC 480-107-020 ELIGIBILITY FOR LONG-RUN GENERATING FACILITY PURCHASE RATES. (1) Any developer of a potential qualifying facility may participate in the bidding process. Qualifying facility developers proposing projects with a design capacity of one megawatt or less may choose to receive long-run prototype contract B as defined in WAC 480-107-010 (3)(b). The purchase price for power from these projects shall be based on avoided energy and capacity costs as defined in WAC 480-107-040 adjusted to reflect the most recent solicitation.

(2) A soliciting electric utility may broaden the scope of the solicitation and bidding process to include independent power producers or other electric utilities, subject to the approval of the commission. Such a decision must be explained in the utility's RFP submittal.

(3) A generating subsidiary of a soliciting electric utility may participate in the solicitation and bidding process as a power supplier, on conditions set forth in WAC 480-107-160. Such a decision must be explained in the utility's RFP submittal.

(4) A project developer must provide evidence that a generation site has or will be obtained (e.g., letter of intent) before signing a contract with the purchasing electric utility.

#### NEW SECTION

WAC 480-107-030 ELIGIBILITY FOR LONG-RUN CONSERVATION PURCHASE RATES. (1) Any eligible conservation supplier may participate in the bidding process. A utility subsidiary of the soliciting electric utility may participate as a conservation supplier, subject to commission approval, on conditions set forth in WAC 480-107-160. Such a decision must be explained in the utility's RFP submittal.

(2) A participating conservation supplier not owning the facility receiving the conservation measures must, prior to signing a contract, have an enforceable agreement from the facility owner allowing permanent installation of the conservation measures.

(3) All conservation measures included in a project proposal must:

(a) Produce electrical savings over a time period of greater than five years, or a longer period if specified in the electric utility's RFP;

(b) Be consistent with the utility's least-cost plan at the time of the bid;

(c) Produce savings that can be reliably measured or estimated with accepted engineering methods; and

(d) Have a simple payback of greater than one year, calculated by dividing the cost of the measure by the annual dollar savings to the electrical customer on whose premises the conservation measure is installed.

#### NEW SECTION

WAC 480-107-040 SIZE OF RESOURCE BLOCK. (1) The electric utility shall, as part of its RFP submittal, identify a resource block consisting of the overall amount of power to be solicited from project developers through the bidding process. The commission shall review the proposed resource block in its evaluation of the electric utility's RFP submittal.

(2) The electric utility shall, as part of its RFP documentation, demonstrate that the size of the resource block is consistent with the range of estimated new resource needs identified in the utility's least-cost plan.

NEW SECTION

WAC 480-107-050 AVOIDED COST SCHEDULES. The electric utility shall determine the avoided costs for the energy and capacity associated with the resource block calculated pursuant to WAC 480-107-040 on an annual basis for the greater of twenty years or the longest period over which power purchase contracts entered under these rules will be effective. This price stream will be referred to as the utility's avoided cost schedule. The avoided cost schedule and its supporting documentation shall be filed with the RFP and shall be reviewed by the commission. The assumptions used in calculating the avoided cost schedule shall be consistent with the utility's least-cost plan. The electric utility shall use this stream of avoided costs to provide general information to potential bidders about the value of new power supplies absent nonutility resources.

The electric utility must explain for the purposes of cost recovery the basis for selecting any projects that exceed the net present value of the stream of prices in the avoided cost schedule over the life of the project contract.

NEW SECTION

WAC 480-107-060 THE SOLICITATION PROCESS. (1) The utility shall begin the solicitation process by issuing a request for proposals (RFP). The information which a bidder files in accordance with the utility's RFP will be referred to as the project proposal. Project proposals will be subject to a competitive ranking procedure to determine the group of bidders with which the utility will finalize long-run purchase contracts.

(2) Requirements for issuing a request for proposals:

(a) The electric utility shall solicit bids for electric power and electrical savings at least every two years. More frequent solicitations shall be allowed at the discretion of the utility. The solicitation must take the form of an RFP approved by the commission.

(b) The electric utility shall submit a proposed RFP and accompanying documentation to the commission at least sixty days before its proposed issuance date. The utility shall simultaneously submit copies of its proposed RFP to those who have registered a request with the utility. Interested persons shall have thirty days from the RFP's filing date with the commission to submit written comments to the commission on the proposed RFP. The commission may suspend the RFP filing to determine whether its issuance is in the public interest.

(c) The RFP shall specify the resource block and the long-term avoided cost schedule as calculated in WAC 480-107-040 and 480-107-050.

(d) A utility may solicit bids for the resource block with a procedure that differentiates between conservation and generating resources, but if separate solicitations are to be used for conservation and generating resources, the utility must demonstrate to the commission in its RFP documentation that such an approach is consistent with the goals of least-cost planning.

(e) The RFP shall explain the evaluation and ranking procedure to be used by the utility. The RFP must also specify any minimum criteria that bidders must satisfy to be eligible for consideration in the ranking procedure.

NEW SECTION

WAC 480-107-070 PROJECT RANKING PROCEDURE. (1) The electric utility shall adopt ranking procedures to evaluate project proposals on the basis of least-cost planning goals. The project ranking procedure must use explicitly stated criteria.

(2) The criteria used to rank project proposals are subject to commission approval and must be explained in the RFP. These factors must at minimum address price, risks imposed on ratepayers, and environmental effects.

(3) Information submitted by the bidder pursuant to an approved RFP shall remain sealed until expiration of the solicitation period specified in the RFP. The utility shall make project proposal summaries and a final ranking available at its place of business for public inspection after the project proposals have been opened for the purpose of ranking. The commission shall retain the right to examine project proposals as originally submitted by potential developers.

NEW SECTION

WAC 480-107-080 PRICING AND CONTRACTING PROCEDURES. (1) On the basis of the ranked project proposals developed in accordance with WAC 480-107-060 and 480-107-070, the

electric utility shall identify the bidders that best meet the selection criteria and that are expected to produce the energy, capacity, and electrical savings as defined by the resource block.

(2) The price bid and the requested pricing configuration are not subject to negotiation. If a qualifying facility or other generating facility agrees to be operated under economic dispatch, then the price bid shall be adjusted by operating performance adjustments such as the project's equivalent availability factor. The methodology for such performance adjustments must be explained in the utility's RFP submittal.

NEW SECTION

WAC 480-107-090 SECURITY CONSIDERATIONS. (1) The purpose of security requirements shall be to protect ratepayer interests. The requirements and the rationale for them shall be explained in the electric utility's RFP submittal.

(2) The electric utility's ranking procedures shall recognize differences in the amount of security inherent among different technologies, financing arrangements, and contract provisions.

(3) Security is required on all project contracts whose expected payment to the project developer at any point in time will exceed the payment which would have been made under the utility's avoided cost schedule. No minimum security is required if payments to the project developer are expected to be always less or equal to the payments which would have been made under the utility's avoided cost schedule.

NEW SECTION

WAC 480-107-100 CONTRACT FINALIZATION. (1) If, for the purposes of finalizing a particular contract, the project developer or electric utility requests changes in the long-run prototype contract, the project developer and utility may negotiate these items consistent with the provisions of this chapter. If after ninety days the parties cannot reach an agreement, either party may request a determination by the commission of the matter at issue.

(2) The electric utility is required to sign long-run prototype contracts for any appropriate time period specified in a selected project proposal for up to a twenty-year term. Longer term contracts can be signed if such provisions are specified in the utility's RFP.

(3) If, during contract finalization, a project developer materially changes the representations it had made in its project proposal, the electric utility must suspend contract finalization with that party and rerank projects according to the new representations. If the new representations cause the project proposal to rank lower than projects not originally selected, the utility shall dismiss the project proposal from further consideration and replace it with next ranked projects.

NEW SECTION

WAC 480-107-110 OBLIGATIONS OF GENERATING FACILITIES TO ELECTRIC UTILITY. The conditions listed in this section shall apply to all generating facilities to be served by an electric utility under this chapter.

(1) The owner or operator of a generating facility purchasing or selling electricity pursuant to these rules shall execute a written agreement with the electric utility.

(2) In order to ensure system safety and reliability of interconnected operations, all interconnected generating facilities shall be constructed and operated in accordance with all applicable federal, state, and local laws and regulations.

(3) The generating facility shall furnish, install, operate, and maintain in good order and repair and without cost to the electric utility such relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus as shown by the utility to be reasonably necessary for the operation of the generating facility in parallel with the electric utility's system.

(4) Switching equipment capable of isolating the generating facility from the electric utility's system shall be accessible to the utility at all times.

(5) At its option, the electric utility may choose to operate the switching equipment described in subsection (3) of this section if, in the sole opinion of the utility, continued operation of the customer's generating facility in connection with the utility's system may create or contribute to a system emergency. Such a decision by the utility is subject to commission verification pursuant to WAC 480-107-140. The utility shall endeavor to minimize any adverse effects of such operation on the customer.

(6) Any agreement between a generating facility and an electric utility shall provide for the degree to which the generating facility will assume responsibility for the safe operation of the interconnection facilities. No generating facility may be required to assume responsibility for negligent acts of the utility.

#### NEW SECTION

**WAC 480-107-120 OBLIGATIONS OF ELECTRIC UTILITY TO GENERATING FACILITIES.** (1) Obligation to sell to generating facilities. Each electric utility shall sell to any generating facility, in accordance with WAC 480-107-130, any energy and capacity requested by the generating facility on the same basis as available to other customers of the utility in the same class.

(2) Obligation to interconnect. Any electric utility shall make such interconnections with any generating facility as may be necessary to accomplish purchases or sales under this chapter. The obligation to pay for any interconnection costs shall be determined in accordance with WAC 480-107-150.

(3) Parallel operation. Each electric utility shall offer to operate in parallel with a generating facility: PROVIDED, That the generating facility complies with any applicable standards established in accordance with WAC 480-107-110.

#### NEW SECTION

**WAC 480-107-130 RATES FOR SALES TO GENERATING FACILITIES.** (1) General rules:

(a) Shall be just and reasonable and in the public interest; and

(b) Shall not discriminate against any generating facility in comparison to rates for sales to other customers served by the electric utility.

(2) Rates for sales which are based on accurate data and consistent system-wide costing principles shall not be considered to discriminate against any generating facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics.

(3) Additional services to be provided to generating facilities:

(a) Upon request for a generating facility, each electric utility shall provide:

- (i) Supplementary power;
- (ii) Back-up power;
- (iii) Maintenance power; and
- (iv) Interruptible power.

(b) The commission may waive any requirement of (a) of this subsection if, after notice in the area served by the electric utility and after opportunity for public comment, the electric utility demonstrates and the commission finds that compliance with such requirement will:

(i) Impair the electric utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the electric utility.

(4) The rate for sale of back-up power or maintenance power:

(a) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all generating facilities on an electric utility's system will occur simultaneously, or during the system peak, or both; and

(b) Shall take into account the extent to which scheduled outages of the generating facilities can be usefully coordinated with scheduled outages of the utility's facilities.

#### NEW SECTION

**WAC 480-107-140 SYSTEM EMERGENCIES.** (1) Generating facility obligation to provide power during system emergencies: A generating facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

(a) Provided by agreement between such generating facility and electric utility; or

(b) Ordered under section 202(c) of the Federal Power Act.

(2) Discontinuance of purchases and sales during system emergencies:

(a) During any system emergency, an electric utility may discontinue or curtail:

(i) Purchases from a generating facility if such purchases would contribute to such emergency; and

(ii) Sales to a generating facility, provided that such discontinuance or curtailment does not discriminate against a generating facility, and takes into account the degree to which purchases from the generating facility would offset the need to discontinue or curtail sales to the generating facility.

(b) System emergencies resulting in utility action under these rules are subject to verification by the commission if either party requests such verification.

#### NEW SECTION

**WAC 480-107-150 INTERCONNECTION COSTS.** (1) Obligation to pay. Any costs of interconnection shall be the responsibility of the owner or operator of the generating facility. Interconnection costs which may be reasonably incurred by the electric utility shall be assessed against a generating facility on a nondiscriminatory basis with respect to other customers with similar load characteristics.

(2) Reimbursement of interconnection costs. The electric utility shall be reimbursed by the generating facility for any reasonable interconnection costs the utility may incur. Such reimbursement may be over an agreed period of time, but not greater than the length of any contract between the utility and the generating facility.

#### NEW SECTION

**WAC 480-107-160 SPECIAL CONDITIONS FOR PURCHASE OF ELECTRICAL POWER OR SAVINGS FROM A UTILITY SUBSIDIARY.** (1) With the approval of the commission, utility subsidiaries may participate in a parent company's solicitation and bidding process. Under such circumstances, the solicitation and bidding process will be subject to additional scrutiny by the commission to ensure that no unfair advantage is given to the bidding subsidiary.

(2) As part of its RFP submittal, an electric utility shall notify the commission if a utility subsidiary intends to participate in its bidding and solicitation process. The parent company must indicate in its RFP submittal how it will ensure that its subsidiary or subsidiaries will not gain, through its association with the parent company, any unfair advantage over potential nonaffiliated competitors.

(3) Evidence of any unfair advantage given to a bidding utility subsidiary shall constitute grounds for full or partial denial of rate recovery for the subsidiary's project or projects.

#### NEW SECTION

**WAC 480-107-170 FILINGS—INVESTIGATIONS—EXCEPTIONS.** (1) The electric utility shall file with the commission and maintain on file for inspection at its place of business the current rates, prices, and charges established pursuant to these rules.

(2) If, at any time, a project developer is aggrieved by an action of an electric utility pursuant to these rules, the aggrieved party may petition the commission to investigate such action. The commission may, at its discretion, open an investigation and, if it deems necessary, hold public hearings regarding any such petition.

(3) The commission may grant such exceptions to these rules as may be appropriate in individual cases.

#### REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 480-105-001 PURPOSE.
- (2) WAC 480-105-005 APPLICATION OF RULES.
- (3) WAC 480-105-010 DEFINITIONS.
- (4) WAC 480-105-020 OBLIGATIONS OF QUALIFYING FACILITIES TO ELECTRIC UTILITY.
- (5) WAC 480-105-030 AVAILABILITY OF ELECTRIC UTILITY SYSTEM COST DATA.
- (6) WAC 480-105-040 OBLIGATIONS OF ELECTRIC UTILITY QUALIFYING FACILITIES.
- (7) WAC 480-105-050 RATES FOR PURCHASES.
- (8) WAC 480-105-060 RATES FOR SALES.
- (9) WAC 480-105-070 INTERCONNECTION COSTS.
- (10) WAC 480-105-080 SYSTEM EMERGENCIES.



**WSR 89-08-112**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Filed April 5, 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 Bellevue, city of, amending WAC 173-19-2503;

that the agency will at 7:00 p.m., Tuesday, May 23, 1989, in the City Council Chambers, 11511 Main Street, Bellevue, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 5, 1989.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 30, 1989.

Dated: April 5, 1989  
 By: Carol Jolly  
 Assistant Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 173-19-2503 City of Bellevue.

Description of Purpose: Adoption of revised shoreline master program into state master program (chapter 173-19 WAC).

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts a revision to the shoreline master program for the city of Bellevue to bring it into conformance with changes in chapter 173-14 WAC and clarify definitions.

Reasons to Support the Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barry Wenger, (206) 459-6767, WDOE, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Department of Ecology, state government.

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

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order DE 83-3, filed 3/23/83)

WAC 173-19-2503 BELLEVUE, CITY OF. City of Bellevue master program approved February 26, 1975. Revision approved January 8, 1979. Revision approved May 14, 1981. Revision approved February 24, 1983. Revision approved July 5, 1989.

**WSR 89-08-113**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Filed April 5, 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 Bellingham, city of, amending WAC 173-19-4501;

that the agency will at 7:00 p.m., Wednesday, May 10, 1989, in the City Council Chambers, 210 Lottie Street, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 5, 1989.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Wednesday, May 17, 1989.

Dated: April 5, 1989  
 By: Carol Jolly  
 Assistant Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 173-19-4501 City of Bellingham.

Description of Purpose: Adoption of revised shoreline master program into state master program (chapter 173-19 WAC).

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts a revision to the shoreline master program for the city of Bellingham dividing the Urban II environment designation into urban maritime and urban multi-use designations; and clarifying policy and adopting standards relating to water-oriented uses, public access, shoreline setbacks, parking, riparian vegetation, water quality, enforcement and other related issues.

Reasons to Support the Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Skowlund, (206) 438-7430, WDOE, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Department of Ecology, state government.

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

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order DE 84-11, filed 3/29/84)

WAC 173-19-4501 BELLINGHAM, CITY OF. City of Bellingham master program approved September 30, 1974. Revision approved March 29, 1984. Revision approved July 5, 1989.

**WSR 89-08-114**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed April 5, 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 Snohomish County, amending WAC 173-19-390.

that the agency will at 7:00 p.m., Thursday, May 18, 1989, in the City Council Chambers, City Hall, 3002 Wetmore Street, Everett, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 5, 1989.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 25, 1989.

Dated: April 5, 1989

By: Carol Jolly  
Assistant Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 173-19-390 Snohomish County.

Description of Purpose: Adoption of revised shoreline master program into state master program (chapter 173-19 WAC).

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts a revision to the shoreline master program for Snohomish County to bring definitions and language relating to shoreline variance permits into conformance with changes in chapter 173-14 WAC.

Reasons to Support the Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Skowlund, (206) 438-7430, WDOE, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Department of Ecology, state government.

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

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order DE 88-55, filed 3/7/89 [3/8/89])

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 February 11, 1987. Revision approved March 7, 1989. Revision approved July 5, 1989.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**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 89-08-115**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed April 5, 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 Monroe, city of, amending WAC 173-19-3910;

that the agency will at 7:00 p.m., Monday, May 22, 1989, in the City Council Chambers, City Hall, 806 West Main Street, Monroe, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 5, 1989.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 30, 1989.

Dated: April 5, 1989

By: Carol Jolly  
Assistant Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 173-19-3910 City of Monroe.

Description of Purpose: Adoption of revised shoreline master program into state master program (chapter 173-19 WAC).

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts a revision to the shoreline master program for the City of Monroe that changes the environment designation of a portion of the area governed by this document from rural to suburban.

Reasons to Support the Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the

Shoreline Management Act and the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Skowlund, (206) 438-7430, WDOE, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Department of Ecology, state government.

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

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order DE 81-56, filed 2/22/82)

WAC 173-19-3810 MONROE, CITY OF. City of Monroe master program approved December 27, 1974. Revision approved February 18, 1982. Revision approved July 5, 1989.

**Reviser's note:** The above section, filed by the agency as an amendment of WAC 173-19-3810, appears to be an amendment of WAC 173-19-3910, there being no WAC 173-19-3810 in existence. Pursuant to RCW 34.08.040, the section is published in the same form as filed by the agency.

## Table of WAC Sections Affected

### KEY TO TABLE

**Symbols:**

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

**Suffixes:**

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
4-25-040	AMD	89-03-062	16-232-425	REP-E	89-08-006	16-690-015	AMD	89-08-039
4-25-180	REP	89-03-062	16-232-435	NEW-E	89-05-004	44-10-120	AMD	89-06-026
4-25-191	NEW	89-03-062	16-232-435	REP-E	89-08-006	44-10-300	NEW	89-06-025
16-30-010	AMD-P	89-02-056	16-232-440	NEW-E	89-08-006	44-10-310	NEW	89-06-025
16-30-010	AMD	89-06-014	16-232-445	NEW-E	89-05-004	44-10-320	NEW	89-06-025
16-30-020	AMD-P	89-02-056	16-232-445	REP-E	89-08-006	50-44-020	AMD-P	89-06-059
16-30-020	AMD	89-06-014	16-232-450	NEW-E	89-08-006	51-12-102	AMD	89-04-043
16-30-025	NEW-P	89-02-056	16-232-455	NEW-E	89-05-004	51-12-206	AMD	89-04-043
16-30-025	NEW	89-06-014	16-232-455	REP-E	89-08-006	51-12-219	AMD	89-04-043
16-30-030	AMD-P	89-02-056	16-232-460	NEW-E	89-08-006	51-12-223	AMD	89-04-043
16-30-030	AMD	89-06-014	16-232-465	NEW-E	89-05-004	51-12-305	AMD	89-04-043
16-30-050	AMD-P	89-02-056	16-232-465	REP-E	89-08-006	51-12-402	AMD	89-04-043
16-30-050	AMD	89-06-014	16-232-470	NEW-E	89-08-006	51-12-411	AMD	89-04-043
16-30-060	AMD-P	89-02-056	16-232-480	NEW-E	89-08-006	51-12-426	AMD	89-04-043
16-30-060	AMD	89-06-014	16-232-490	NEW-E	89-08-006	51-12-503	AMD	89-04-043
16-30-070	AMD-P	89-02-056	16-300-010	AMD-E	89-07-029	51-12-601	AMD	89-04-043
16-30-070	AMD	89-06-014	16-300-010	AMD-P	89-07-074	51-12-602	AMD	89-04-043
16-30-090	AMD-P	89-02-056	16-304-040	AMD-P	89-07-074	51-12-605	AMD	89-04-043
16-30-090	AMD	89-06-014	16-316-160	AMD-P	89-07-074	51-12-608	AMD	89-04-043
16-30-100	AMD-P	89-02-056	16-316-185	AMD-P	89-07-074	55-01-010	AMD	89-06-001
16-30-100	AMD	89-06-014	16-316-230	AMD-P	89-07-074	55-01-010	AMD-E	89-08-055
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16-59-030	AMD	89-06-007	16-316-315	AMD-P	89-07-074	55-01-030	AMD	89-06-001
16-212-087	NEW-P	89-08-019	16-316-350	AMD-P	89-07-074	55-01-050	AMD	89-06-001
16-212-110	AMD-P	89-08-019	16-316-360	AMD-P	89-07-074	55-01-060	AMD	89-06-001
16-212-230	AMD-P	89-08-019	16-316-370	AMD-P	89-07-074	82-50-021	AMD	89-03-063
16-224-010	AMD-P	89-08-019	16-316-440	AMD-P	89-07-074	98-08-150	AMD-P	89-05-054
16-225-001	REP-P	89-08-019	16-316-474	AMD-P	89-07-074	98-08-150	AMD	89-08-043
16-225-010	REP-P	89-08-019	16-316-525	AMD-P	89-07-074	98-11-010	AMD-P	89-05-054
16-225-020	REP-P	89-08-019	16-316-660	AMD-P	89-07-074	98-11-010	AMD	89-08-043
16-225-030	REP-P	89-08-019	16-316-800	AMD-P	89-07-074	98-12-010	REP-P	89-05-054
16-225-040	REP-P	89-08-019	16-316-810	AMD-P	89-07-074	98-12-010	REP	89-08-043
16-225-050	REP-P	89-08-019	16-316-820	AMD-P	89-07-074	98-12-050	NEW-P	89-05-054
16-228	AMD-C	89-06-006	16-400-007	AMD-P	89-05-040	98-14-090	AMD-P	89-05-054
16-228-162	AMD	89-07-006	16-400-007	AMD	89-08-040	98-14-090	AMD	89-08-043
16-228-164	NEW	89-07-006	16-400-010	AMD-P	89-05-040	98-14-100	NEW-P	89-05-054
16-228-165	REP	89-07-006	16-400-010	AMD	89-08-040	98-14-100	NEW	89-08-043
16-228-166	NEW	89-07-006	16-400-040	AMD-P	89-05-040	98-16-020	AMD-P	89-05-054
16-230	NEW-C	89-04-056	16-400-040	AMD	89-08-040	98-16-020	AMD	89-08-043
16-230	NEW-C	89-07-051	16-400-050	REP-P	89-05-040	98-20-010	REP-P	89-05-054
16-230-800	NEW-P	89-03-065	16-400-050	REP	89-08-040	98-20-010	REP	89-08-043
16-230-805	NEW-P	89-03-065	16-400-100	AMD-P	89-05-040	98-20-020	AMD-P	89-05-054
16-230-810	NEW-P	89-03-065	16-400-100	AMD	89-08-040	98-20-020	AMD	89-08-043
16-230-815	NEW-P	89-03-065	16-400-150	AMD-P	89-05-040	98-40-020	AMD-P	89-05-054
16-230-820	NEW-P	89-03-065	16-400-150	AMD	89-08-040	98-40-020	AMD	89-08-043
16-230-825	NEW-P	89-03-065	16-400-210	AMD-P	89-05-040	98-40-030	AMD-P	89-05-054
16-230-830	NEW-P	89-03-065	16-400-210	AMD	89-08-040	98-40-030	AMD	89-08-043
16-232-405	NEW-E	89-05-004	16-400-270	AMD-P	89-05-040	98-40-040	AMD-P	89-05-054
16-232-405	REP-E	89-08-006	16-400-270	AMD	89-08-040	98-40-040	AMD	89-08-043
16-232-415	NEW-E	89-05-004	16-528-020	AMD-P	89-04-049	98-40-050	AMD-P	89-05-054
16-232-415	REP-E	89-08-006	16-528-020	AMD	89-08-020	98-40-050	AMD	89-08-043
16-232-425	NEW-E	89-05-004	16-690-015	AMD-P	89-05-041	98-40-070	AMD-P	89-05-054













### Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
248-27-085	NEW-P 89-07-023	284-144-020	AMD-P 89-08-098	251-12-600	AMD-P 89-06-045
248-27-090	REP-P 89-07-023	284-144-030	REP-P 89-08-098	251-14-110	AMD-C 89-05-043
248-27-095	NEW-P 89-07-023	284-144-031	NEW-P 89-08-098	251-14-110	AMD 89-08-003
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248-27-175	NEW-P 89-07-023	284-144-080	REP-P 89-08-098	251-19-120	AMD-P 89-06-045
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248-31	AMD-P 89-07-023	284-144-090	REP-P 89-08-098	251-19-122	NEW-P 89-06-045
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248-31-060	REP-P 89-07-023	284-144-160	REP-P 89-08-098	260-34-010	AMD-P 89-08-090
248-31-065	NEW-P 89-07-023	284-144-161	NEW-P 89-08-098	260-34-020	AMD-P 89-04-060
248-31-070	REP-P 89-07-023	284-144-170	REP-P 89-08-098	260-34-020	AMD-W 89-07-027
248-31-075	REP-P 89-07-023	284-144-171	NEW-P 89-08-098	260-34-020	AMD-P 89-08-090
248-31-077	NEW-P 89-07-023	284-144-180	REP-P 89-08-098	260-34-030	AMD-P 89-04-060
248-31-080	REP-P 89-07-023	284-144-181	NEW-P 89-08-098	260-34-030	AMD-W 89-07-027
248-31-085	NEW-P 89-07-023	284-144-190	REP-P 89-08-098	260-34-030	AMD-P 89-08-090
248-31-090	REP-P 89-07-023	284-144-191	NEW-P 89-08-098	260-34-040	AMD-P 89-04-060
248-31-095	NEW-P 89-07-023	284-144-200	REP-P 89-08-098	260-34-040	AMD-W 89-07-027
248-31-100	REP-P 89-07-023	284-144-201	NEW-P 89-08-098	260-34-040	AMD-P 89-08-090
248-31-105	NEW-P 89-07-023	284-144-210	REP-P 89-08-098	260-34-050	AMD-P 89-04-060
248-31-110	REP-P 89-07-023	284-144-211	NEW-P 89-08-098	260-34-050	AMD-W 89-07-027
248-31-115	NEW-P 89-07-023	284-144-220	REP-P 89-08-098	260-34-050	AMD-P 89-08-090
248-31-120	REP-P 89-07-023	284-144-230	REP-P 89-08-098	260-34-060	AMD-P 89-04-060
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248-31-135	NEW-P 89-07-023	250-44-050	AMD 89-08-056	260-34-070	AMD-P 89-04-060
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248-31-155	NEW-P 89-07-023	250-44-110	AMD-P 89-04-048	260-34-070	AMD-P 89-08-090
248-31-150	REP-P 89-07-023	250-44-110	AMD 89-08-056	260-34-080	AMD-P 89-04-060
248-31-165	NEW-P 89-07-023	250-44-110	AMD-E 89-08-057	260-34-080	AMD-W 89-07-027
248-31-160	REP-P 89-07-023	250-44-130	AMD-P 89-04-048	260-34-080	AMD-P 89-08-090
248-31-175	NEW-P 89-07-023	250-44-130	AMD 89-08-056	260-34-090	AMD-P 89-04-060
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248-36-025	NEW-P 89-07-023	251-01-078	NEW-P 89-06-044	260-34-100	AMD-W 89-07-027
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248-36-055	NEW-P 89-07-023	251-01-415	AMD-P 89-06-045	260-34-180	AMD-W 89-07-027
248-36-065	NEW-P 89-07-023	251-04-040	AMD-P 89-06-044	260-34-180	AMD-P 89-08-090
248-36-077	NEW-P 89-07-023	251-04-040	AMD-P 89-06-045	260-34-190	NEW-P 89-04-060
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